ATTACHMENT 1

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

April 25, 2011

Santa Barbara City Council
c/o Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, California 93101

VIA HAND DELIVERY

RE: Appeal of Planning Commission Decision on April 14, 2011, 900 Calle de los Amigos (MST2005-00742), Valle Verde Retirement Community Project

Mayor Schneider and Members of the City Council:

This office represents Hidden Oaks Homeowners Association which hereby appeals all aspects of the Planning Commission's April 14, 2011 decision certifying the Final Environmental Impact Report (EIR), adopting findings for issuing a Conditional Use Permit (CUP) and approving the Valle Verde Retirement Community Project ("Project").

Overview

The Project involves a significant physical expansion, largely at the outer edges of Valle Verde's lands. The proposed development at the peripheries intrudes into sensitive oak woodlands and steep slopes, and imparts substantial and avoidable impacts to surrounding neighborhoods. This physical expansion could be accommodated in the interior of the lot, as strongly suggested by the Planning Commission. Other comparable retirement communities in the City, notably Samarkand, use underground parking lots to provide on-site parking for residents, guest and staff while preserving open space lands. Although the Planning Commission urged the applicant to consider revising the Project to include underground parking and thereby reduce Project impacts, they did not require it. We ask that the City Council direct the Applicant to revise the Project by including underground parking to avoid new parking lots on steep slopes and liberating space in the Project interior to accommodate the requested new units, thereby avoiding residential construction in and near sensitive oak woodlands.

Under existing conditions, the day-to-day operations of Valle Verde cause significant impacts upon the surrounding neighborhoods, largely from the lack of compliance with and enforcement of an already-existing City permit condition requiring employees and residents to park on-site. Unlike the situation with all other retirement facilities in the City, virtually each neighborhood surrounding the Project has stated objections to the proposed Project. The Planning Commission made minor adjustments to address a few neighborhood concerns, such as painting one curb red and enhancing voluntary on-site employee parking incentives, but past experience has shown these token actions will be inadequate to address existing problems, much less fully mitigate impacts from the expansion.

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The Valle Verde property is zoned for single-family residential use and is surrounded by residential uses and open space, with the intensity and nature of development and use proposed allowable only by Conditional Use Permit ("CUP"). Under the existing A-1 and E-3 zoning, 189 units could be developed on Valle Verde's 59.75 acre property. FEIR, p. 6-10. The Project proposes 40 new units, for a total of 254 units, exceeding by 65 units the intensity of development allowed under the existing zoning.

Valle Verde borders Arroyo Burro Creek, Hidden Valley Park, and includes one of only two remaining "pristine" stands of Coastal Live Oak woodland in the entire City. Initial Study, page 7. This stand of over 500 trees has already been impacted by the Applicant's excessive habitat destruction under the guise of wildfire fuel management. These improperly cleared lands, once possessing habitat value that would have limited development, are now proposed for development. No developer should be rewarded for destruction of habitat, regardless of the merit of their services to the City.

Additionally, the proposed development on the Rutherford Parcel will be visible from important public viewing locations including from Torino Drive and the public hiking trail adjacent to Torino Drive. The Project requires an unnecessary modification to site a new residence in the Torino Drive setback.

The Applicant and past City inaction have compromised the integrity of the oak woodland on the site. Although, the 1984 CUP required dedication of a four acre portion of the oak woodland as a condition for approval, the lands were never dedicated. Referring to this 27 year old violation, Steve Amerikaner, the former City attorney who is now the Applicant's attorney, explained to the Planning Commission, "we just dropped the ball." The City has not acted in the interim to correct this error, and as noted above, the Applicant's over-zealous fuel modification have compromised the ecological integrity of a prized oak woodland. Not only must past errors be corrected, but this history demonstrates that enhanced controls are needed to ensure the goal of preserving the oak woodland is achieved. Specifically, we request that a habitat conservation easement be imposed on the 9.8 acre oak woodland, as recommended by the California Department of Fish and Game. FEIR, Vol. II, Letter # 5. Mere dedication of development rights does not ensure preservation of the oak woodland - there must be an affirmative obligation to manage and maintain these lands for oak woodland habitat purposes, with an independent entity possessing the duty to monitor and the right to enforce preservation requirements. As such, the City should impose a condition requiring the Applicant to impose a conservation easement on the 9.8 acres. A habitat conservation easement will include a specific objective for the use of the lands and third party monitoring, and enforcement in the event of non-compliance. That way, we can ensure that this important dedication does not slip through the cracks again and that the oak woodland will be forever preserved for the benefit of Valle Verde residents, the surrounding neighborhood, and the City of Santa Barbara.

Additionally, inadequate and poorly sited on-site parking for employees, residents' guests and event-attending visitors has resulted in parking that overwhelms neighborhood streets. Calle de los Amigos is a relatively narrow curving road with parking on both sides. Valle Verde employees, guests and visitors routinely park this road to capacity in the areas surrounding the Project, congesting the neighborhood and its roadways while imposing substantial hazards and inconvenience upon surrounding neighborhoods.

Appellants support the mission of Valle Verde and recognize both the need for additional senior housing in the Santa Barbara community and Valle Verde's long history of serving those needs. However, we believe the additional 60,000 square feet of building development and 31,000 square feet of pavement and driveways, much of it at the hillside periphery of the site, exceeds appropriate development for the neighborhood and the sensitive site. The Project proposes cutting into the hillside (in several places on slopes greater than 30%), constructing large retaining walls in several locations, removing and impacting over 20 oak trees, one large sycamore and 46 non-native trees.

This is our City's only chance to ensure perpetual preservation of the oak woodland and develop this property in an appropriate way. Underground parking lots have been used at similar facilities in the City and would go a long way to reduce development on the hillside and oak woodland and provide enough parking on-site to minimize the traffic hazards in the neighborhood.

A. <u>Appeal Issues</u>

The issues that serve as the grounds for this appeal are delineated in the two attached letters from our office and are summarized as follows:

1. **The project is inconsistent with the City's General Plan, City Charter and Zoning Ordinance regarding density, site area and setbacks and should be downsized.**

   - The project is inconsistent with the following General Plan Conservation Elements:
     - Remaining Southern Oak Woodlands shall be preserved when feasible (Biological Resources Policy 4.0)
     - New development shall not obstruct scenic view corridors (Visual Resources Policy 3.0)
     - Mature trees should be integrated into project design rather than removed (Visual Resources Policy 4.1)
     - All feasible options should be exhausted prior to the removal of trees (Visual Resources Policy 4.2)

- Development which necessitates grading on hillsides with slopes greater than 30% should not be permitted (Visual Resources Policy 2.1)
- Development on hillsides shall not significantly modify the natural topography and vegetation (Visual Resources Policy 2.0)

➢ The project is inconsistent with the following General Plan Land Use Element language:
- "In implementing [density controls greater than the General Plan recommends, such as public housing for senior citizens], care must be taken that the regulatory measures adopted are not only designed to permit the beneficial variations from standards desired, *but will be effective in preventing inappropriate relationships between neighboring land uses and will provide adequate safeguards against abuse of the privileges."*

➢ The following required Zoning Ordinance Findings **cannot** be made:
- New residential care facilities (such as those proposed on the Rutherford lot) "will generate a demand for services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone …". (Zoning Ordinance §28.94.030.R.2.a)
- Setbacks and Site area: "The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. " (Zoning Ordinance § 28.94.020 (3))
- Setback modification "is consistent with the purposes and intent of this Title, and is necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement …" (Zoning Ordinance § 28.92.110.2)

➢ The Project violates the City Charter § 1507, requiring that "land development shall not exceed its public services … [including] traffic and transportation capacity." The Project adds individual and cumulative trips to the over-capacity Las Positas/101 interchanges, exacerbating an impermissible condition.

2. Parking is inadequate.

- The Project's proposed parking spaces is insufficient under the Zoning Ordinance;
- Findings of adequate parking required for CUP approval were not made;
- The Project's proposed parking permit system does not adequately address excessive on-street parking.
- The Project's development exceeds available public parking capacity in violation of City Charter § 1507.

- The Project does not provide enough parking spaces for each of its residents (as required by the 1984 CUP).

3. **The EIR and CEQA compliance is inadequate.**

   - The EIR project description fails to describe key components of the project including the number of employees and special events information.
   - The EIR fails to adequately describe the baseline existing environment regarding biological resources and parking and traffic.
   - The EIR fails to require adequate mitigation to avoid or minimize environmental damage regarding aesthetic impacts (woodland views from road and hiking trail), biological resource impacts (oak woodland habitat, wildlife movement corridors, sensitive wildlife species); fire hazard and evacuation impacts; land use impacts (neighborhood compatibility); traffic and parking impacts; and cumulative impacts.
   - The Project's land use impacts were not adequately analyzed in the EIR.
   - The EIR did not include adequate assessment and evaluation of the feasibility of alternatives.
   - The EIR did not include enough information for meaningful public review and comment and the responses to those comments lacked detail and the requisite analysis.
   - The EIR did not adequately assess the Project's impacts to historical resources, specifically, the City has not consulted with anyone on the Native American Contact List to evaluate whether the project will impact the sacred sites identified by the Native American Heritage Commission. The 2008 study has not been shown to exist, and test methods were ill-suited to actually identify whether resources may be present on these lands whose surface was previously disturbed by agricultural activities.

4. **Oak Woodland Protection**

The 9.8 acre Oak Woodland habitat dedication condition (Condition B(1)(p)) is inadequate to preserve this threatened habitat and achieve long term protection. A conservation easement is justified and required.

5. **Archaeological Resources**

The site is part of a complex of village sites and areas of intensive and continuous occupation associated with Arroyo Burro Creek. The City has violated CEQA, the General Plan and the City Code in not adequately evaluating known sensitive archaeological sites.

Archaeological Resources are protected by the following policies, laws and regulations:

City General Plan Conservation Element:
Goal: Sites of significant archaeological … resources will be preserved and protected wherever feasible in order that historic and prehistoric resources will be preserved.

Policy and Implementation Strategies:
1.0 Activities and Development which could damage or destroy archaeological, historical, or architectural resources are to be avoided.

1.1 In the environmental review process, any proposed project which is in an area indicated on the map as "sensitive" will receive further study to determine if archaeological resources are in jeopardy. A preliminary site survey (or a similar study as part of an environmental impact report) shall be conducted in any case where archaeological resources could be threatened.

Santa Barbara Municipal Code § 22.12.020:
"All new development in the City of Santa Barbara shall be designed and constructed wherever feasible to avoid destruction of archaeological and paleontological resources consistent with the standards outlined …"

CEQA § 21083.2(a)
"If the lead agency determines that the project may have a significant effect on unique archaeological resources, the environmental impact report shall address the issue of those resources."

The Initial Study (EIR, Appendix A) for the Project concluded that:

A portion of APN 049-040-053 and -054 are within a Prehistoric Sites and Water Courses Sensitivity Zone. Development proposed in these areas involves the construction of residential units, parking areas and various common area facilities, including an addition to the Administration Building. An intensive field survey of the entire property, including shovel scrapes in areas of less ground surface visibility, was performed by Stone Archaeological Consulting. No prehistoric or historic cultural materials were identified.

On September 18, 2010 Katy Sanchez from the Native American Heritage Commission sent a letter to Planner, Peter Lawson commenting on the Notice of Completion. She stated that a Sacred Lands File Check had been completed on 9/27/10 indicating "potential impact to "Lineguitas" and two known archaeological CA-SBA-42 and CA-SBA-60 sites (Goleta USGS Quadrangle, township 4 north, range 28 west). Ms. Sanchez added that the City should "Contact

the NAHC [enclosed list] of the appropriate Native American Contacts for consultation concerning the project site and to assist in the mitigation measures."

The City has not contacted any of the Native American Contacts on the list. On April 14, 2011, Frank Arredondo (Chumash/Coastanoan and on the NAHC consultation list), sent a lengthy letter to the Planning Commission opposing the project and revealing that the Project is located on "areas known to be once inhabited by prehistoric Chumash." This Project site could also be a known burial site. Mr. Arredondo also expressed the following concerns:

- The City Planner would not give a copy of the 2008 Archaeological Report referenced in the EIR to Mr. Arredondo. There is no evidence this report even exists.
- The only report filed with the Central Coast Information Report (CCIC) was from 2003 by Stone Archaeological Consulting.
- The 2003 Report is inaccurate: no shovel scrapes had been conducted in the impact area (which have been revised since 2003), the sensitive site is located on the western side of the creek (not the eastern)
- No grading plans have been provided by the applicant – which is a requirement leading to an archaeological study.
- Fill from the walnut orchard may cover subsurface resources. Subsurface resources were not evaluated in the 2003 report.
- The City has not followed their own guidelines delineated in the Master Environmental Assessment "Guidelines for Archaeological Resources and Historic Structures and Sites."

Further study and consultation is required, and the Project must be revised in light of cultural resources. Avoidance must be evaluated first, then mitigation considered. The City omitted the avoidance step, does not appear to be relying on accurate testing data, and instead adopted an after the fact mitigation condition. Qualified Native Americans, including Mr. Arredondo, are entitled to a full consultation and the information from more robust site surveying prior to the approval of this project.

B. <u>Appellants' Requests</u>

Based on the issues above and to reduce density, preserve the quality of the neighborhood and oak woodland we request that the Project be revised as follows:

1. On the Rutherford lot, eliminate units 6/7 and 12/13, and the proposed driveway and parking lot, to achieve compliance with General Plan visual resource policies, eliminate the proposed setback modification from Torino Drive, and help reduce the density of development to better conform to the surrounding neighborhoods.

2. Eliminate units 16/17, 18, 31, 32, 33 and 34 and the southern end of the maintenance area parking lot to preserve oak woodland habitat, including hillside development,

and achieve compliance with biological and visual resource policies of the General Plan. Eliminate or modify those elements of the Project necessitating retaining walls as suggested by the Planning Commission.

3. Increase on-site parking by constructing an underground parking facility, then revise the site plan to eliminate parking facilities and residences on steep slopes..

4. Enhance the parking permit condition by: 1) incorporating specific restrictions and an enforcement mechanism mandating that all residents, employees and guests park on campus, and limiting the number of vehicles per unit; and 2) requiring demonstrated compliance with the on-site parking requirements as a precondition to obtaining building permits.

5. Revise condition B(1)(p) to require that the 9.8 acre Oak Woodland habitat preserve be protected through a conservation easement to permanently preserve its habitat values and scenic qualities.

6. Direct compliance with cultural resource requirements including enhanced site analysis, consultation with qualified representatives, and ensure Project redesign to avoid cultural resources on site.

We have not completed our review of the Planning Commission action and investigation of issues in this matter, and reserve the right to supplement our appeal prior to the hearing. As this project involves an issue of considerable public controversy, we request that the City Council hear this matter during an evening session. We also request the opportunity to coordinate the date of the hearing with the City Clerk's office.

Thank you for your careful attention to this important project.

Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO

Marc Chytilo
Attorney for Hidden Oaks Homeowners Association

Enclosures:

- Letter from Ana Citrin, Law Office of Marc Chytilo, to Planning Commission, April 11, 2011
- Letter from Ana Citrin, Law Office of Marc Chytilo, to Peter Lawson, October 17, 2010

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

April 11, 2011

Santa Barbara City Planning Commission
Planning Commission Secretary
P. O. Box 1990
Santa Barbara, California 93102-1990

By hand delivery and by email

RE: 900 Calle de los Amigos, Valle Verde Project; April 14, 2011 Agenda, Item II

Dear Chair Jostes and Honorable Planning Commissioners:

This office represents the Hidden Oaks Homeowners Association in this matter. The Valle Verde Retirement Community Project ("Project") proposes a significant expansion in a retirement facility located in a residential neighborhood that under existing conditions has created significant land use challenges for the surrounding area. The Valle Verde property is zoned for single-family residential use and is surrounded by residential uses and open space, with the intensity and nature of development and use proposed allowable only by Conditional Use Permit ("CUP"). Valle Verde boarders Arroyo Burro Creek and Hidden Valley Park, and the open space areas owned by Valle Verde include sensitive habitat and one of only two remaining pristine oak tree stands in the entire City. A portion of this sensitive habitat area, known as the Rutherford Lot, is not part of Valle Verde's existing CUP but is proposed for development by expanded CUP. Proposed development and fuel modification on the Rutherford Lot encroaches into sensitive habitat, and is highly visible from Torino Drive and a public hiking trail adjacent to Torino Drive. Inadequate and poorly sited on-site parking has resulted in the extensive use of public streets for Valle Verde parking, creating various conflicts with neighboring residential uses and compromising the character of the neighborhood. The failure to disclose, analyze, and mitigate parking and circulation related impacts of community activities and special events hosted at Valle Verde in the EIR for the Project renders the EIR, and the conclusions and findings regarding the adequacy of on-site parking wholly unfounded.

To ensure consistency of the proposed conditional use with the requirements of the Zoning Ordinance and General Plan, **substantial revisions to the project description and proposed conditions – beyond what City staff has recommended in the staff report - are required**. These revisions include: **a) eliminating proposed development on and adjacent to sensitive biological habitat; b) eliminating proposed development that impairs the public viewshed; c) reconfiguring and increasing on-site parking; d) incorporating meaningful restrictions and enforceability mechanisms into the proposed parking permit condition; e) phasing construction to minimize construction impacts and ensure the adequacy of on-site parking before constructing new units; f) improving the fuel modification and habitat restoration plans; and g) requiring additional public Architectural Review Board (ARB) review proceedings to review and refine Project architecture and landscaping plans.** (Note, our specific requests are listed at the end of this letter).

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Without the above revisions to the project description and proposed conditions, the Project is legally vulnerable due to conflicts with the Zoning Ordinance and General Plan, and due to legal flaws in the Environmental Impact Report ("EIR"). This office and individual members of the Hidden Oaks Homeowners Association submitted extensive comments on the draft EIR, most of which remain relevant. Because of their continued relevance and due to inadequacies with many of the responses to those comments, we reiterate the points made in those letters without repeating them here. Additionally, there is recently disclosed information that materially affects the EIR's adequacy, most notably **the disclosure that Valle Verde regularly hosts a variety of activities, classes, and special events attended by members of the surrounding community. The EIR failed entirely to disclose this significant operational component of Valle Verde, and impermissibly failed to take the attendees of these activities and events into consideration either in the environmental baseline for the traffic, parking, and land use compatibility analyses, or as part of the project description.**

We respectfully urge the Commission to make the changes to the project description and conditions requested herein, or to require revision and recirculation of the EIR prior to making a decision on the Project.

1. Significant New Information: Community Activities, Classes, Meetings, and Events Hosted at Valle Verde

There is a significant component of Valle Verde's operations that was just recently disclosed to the public, namely that non-residents routinely attend Valle Verde activities, and that Valle Verde hosts outside community groups at their facilities for classes, meetings, activities, and events. This information is significant because the EIR's analysis of traffic, parking and land use compatibility all assumed the non-existence of such an operational component. The staff report makes no attempt to quantify the number of community members that attend Valle Verde activities or the number or frequency of Valle Verde activities that may be attended by members of the outside community. The staff report similarly makes no attempt to describe, quantitatively or qualitatively, the outside community events hosted by Valle Verde. A review of public information provided on the American Baptist Homes of the West website however (detailed below) reveals that these events are diverse and numerous. The fact that this information is just being disclosed at the approval stage is shocking given the significant community concern voiced over Valle Verde's traffic, parking, and land use impacts. Moreover, the fact that this significant information was not analyzed in the EIR renders the EIR wholly inadequate.

With respect to the previously undisclosed activities and events at Valle Verde attended by the outside community, the staff report provides as follows:

> Activities at Valle Verde include, but are not limited to art classes, continuing education, seminars and college alumni meetings, *which are attended by both Valle Verde residents and*

> *members of the surrounding community*. Also, on an intermittent basis, *Valle Verde provides meeting rooms to community groups*, such as local homeowner associations, or other local groups.

(Staff Report, p. 1 (*emphasis added*)). The staff report goes on to describe these community activities and events as follows:

> In 1976, an arts and crafts building, a lounge and dining facility were added to the Valle Verde campus, and in 1984 a recreation building, along with additions to the dining complex were constructed. All of these facilities are used predominately by the residents, and activities include painting, college alumni gatherings, and other types of meetings. Each of the activities reflect the interests of the residents, and evolve over time as new residents arrive. *These interests are also shared by the community outside of Valle Verde, and attendees of the activities include a mixture of Valle Verde residents and members of the public.* Finally, *on an intermittent basis Valle Verde provides its facilities to groups that need an area large enough to meet.* Fees are typically collected only if food service is provided. Use of the facilities by outside groups is self-limiting since the facilities are used on a daily basis by the residents.

(Staff Report, p. 5). This narrative, and the remainder of the staff report, fails to disclose how many community members attend Valle Verde activities, how often facilities are used by outside groups, and how large the groups are that use the facilities. The statement the use of facilities by outside groups is "self-limiting" is meaningless without any quantification of how often the facilities are available and used by outside groups.

The staff report's discussion of potential parking impacts of community activities and events is so speculative as to be wholly meaningless. Specifically, the staff report provides:

> The previous permits approved for Valle Verde do not include a specific prohibition on outside groups using the campus, and a larger facility typically includes some outside activity if the impacts on the neighborhood remain at a minimal level. Currently, the main parking impacts from Valle Verde *appear to be* generated from employee parking not being provided in specific areas that are large enough to accommodate a number of employees, as opposed to community activities. Finally, based upon recently raised neighbor concerns, Valle Verde has provided valet parking service for some events and used the nearby church parking lot for the community event attendees.

(Staff Report, p. 8). The assumption that the main parking impacts from Valle Verde is from employees is not supported with any evidence whatsoever, and to our knowledge there has been no attempt to quantify the number of community members attending Valle Verde activities and events and utilizing on-street parking. The staff report and EIR provide no data on the number of Valle Verde activities that occur on a daily, weekly, and monthly basis, let alone any information regarding the number of non-Valle Verde community members that travel to Valle Verde specifically for those

activities. The 2010 "Social Accountability Report" for American Baptist Homes of the West identifies specific community meetings, classes, and events hosted by Valle Verde, including:

- Registered nurse and licensed vocational nurse training programs for students from Santa Barbara City College
- Meetings of community organizations including:
    - CFIT (Cognitive Fitness and Innovative Therapies)
    - Retired Doctors of Santa Barbara
    - MIT Alumni
    - National Charity League
    - Visiting Nurses
    - Bereavement groups
    - Alzheimer's Association
    - Hospice
    - Homeowners associations
    - Local canine chapters for dog training
    - Center for Innovative Therapies (monthly board meeting)
    - Women's Baptist Circle
    - Aging Services of California Los Padres (regional meetings, four times per year)
- Santa Barbara Jr. Miss Pageant (3-day event)
- Santa Barbara City College continuing education
- Vistas Lifelong Learning program
- Visiting Nurse and Hospice Care (Serenity House) meeting place for staff and families
- Broadway a-la Carte Theater rehearsals

(ABHOW Social Accountability Report 2010, available at http://www.sitemason.com/files/lhzNM4/SocialAccountabilityReportFY10.pdf). The frequency of most of these classes, meetings, activities and events is not disclosed in the Report.

While these community classes, meetings, activities, and events are not specifically part of the proposed Project, the Project includes expanding various facilities that are used for these community activities/classes/meetings/events including the Dining/Multi-Purpose building (see FEIR p. 3-19), which would expand Valle Verde's capacity to hold additional and larger community activities and events.

The environmental analysis for the Project is fundamentally flawed without including this component of Valle Verde's operations, both in the existing environmental setting/baseline for impact analysis, and in the project description. One result of this significant omission is that the

Project traffic analysis failed to include trip generation data for these community activities/classes/meetings/events[1]. The EIR's reliance on model trip generation rates instead of quantifying the number of people that come to and from Valle Verde is itself problematic, and the responses to comment do not adequately address this issue (discussed further below). Now with the acknowledgement of non-resident use and the admission that special events involving considerable numbers of non-residents occur at Valle Verde, the importance of quantifying actual trips is even more apparent. The Project parking analysis also failed to consider the additional number of parking spaces necessitated by these uses, and the emergency evacuation analysis does not incorporate the effects of having a large community event taking place, where non-resident attendees of that event would not have gone through Valle Verde's evacuation/emergency drills. This significant change in baseline conditions caused by including these non-resident activities/classes/meetings/events necessitates revision and recirculation of the EIR. ((CEQA Guidelines § 15088.5, *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal. App. 4th 99, 143 (correcting inaccurate baseline studies triggered CEQA's requirement for recirculation); *see County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 952 ("Before the impacts of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined."). Significantly, non-resident use is omitted from the Project Description. Its inclusion only at the Staff Report phase belies an unstable Project Description that prevents the interested and

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[1] Project Traffic Study, FEIR Appendix D, pp. 18-19 (emphasis added):

"After a review of development types and the uses proposed as part of the Project, the trip rate for Continuing Care Retirement Community (CCRC) was chosen as the development type that most represents the changes proposed for the Valle Verde site. The ITE description for CCRCs is "they are land uses that provide multiple elements of senior adult living. CCRCs combine aspects of independent living with increased care, as lifestyle needs change with time. Housing options may include various combinations of senior adult (detached), senior adult (attached), congregate care, assisted living and skilled nursing care aimed at allowing the residents to live in one community as their medical needs change. The communities may also contain special services such as medical, dining, recreational and some limited, supporting retail facilities. **CCRCs are usually self-contained villages**." The trip rate is based on the number of residential units being provided.
Much of the proposed project would result in the expansion of existing uses and/or facilities intended for use by residents or existing staff only. Some of the proposed uses, such as the on-site branch bank office, would be new uses on the site and would reduce the number of off-site trips by new and existing residents by allowing residents to use facilities that are within walking distance rather than having to drive to off-site locations. Therefore, some of the additional trips generated by the proposed project would be offset by the reduced number of off-site trips. Iteris has also reviewed the employment data provided by the project applicant and based on the employee shift times and the FTE staff hours it does not appear that the proposed project will be adding a substantial number of additional staff."

affected community from understanding the actual scope of the project and impacts on critical infrastructure issues, including parking, circulation and emergency evacuation.

2. A Reduction in the Number of Units Is Required to Achieve Consistency with the City's General Plan and Zoning Ordinance and Enable the Commission to Make Required Findings

Zoned for single-family residential use and additionally subject to the limitations in the City's Slope Density Ordinance, the EIR acknowledges that a maximum of only 189 units could be allowed on the 59.75-acre property without a CUP. (EIR p. 6-10). The EIR refers to the General Plan Land Use Element for the proposition that "densities for senior housing can be greater because the number of people per unit is lower for such housing than for non-restricted housing." (*Id.*) Reading this discussion in the Land Use Element itself however reveals that it includes an important caveat. Specifically, the Land Use Element provides:

> Another technique is the variation in density in relation to the size of a unit and the occupancy potentials. The intent of establishing density controls is to limit the intensity of development and activity on the land. In situations where a dwelling unit may yield fewer persons than a normal or average unit, such as in a public housing project for senior citizens, densities in terms of dwelling units per acre may be allowed to increase beyond those limits recommended by the General Plan without causing an inappropriate increase in the intensity of activities.
>
> **In implementing these or other techniques, care must be taken that the regulatory measures adopted are not only designed to permit the beneficial variations from standards desired, *but will be effective in preventing inappropriate relationships between neighboring land uses and will provide adequate safeguards against abuse of the privileges.***

(Land Use Element, p. 44 (*emphasis added*)). Here, the density anticipated under Valle Verde's CUP does not prevent inappropriate relationships between neighborhood land uses or provide adequate safeguards against abuse of the privileges. Accordingly a reduction in density is required, as further detailed below.

a. Findings for State-Licensed Residential Care Facilities for the Elderly Cannot Be Made for the Proposed Density on the Rutherford Parcel

The required CUP findings for senior housing (§28.94.030.R.2) help to ensure that additional density is appropriate for the neighborhood and includes adequate safeguards. For example, the Planning Commission must find that

> *(2) The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use.*

The staff report's proposed finding fails to compare the intensity of the proposed development with the "existing use" as required. Rather it compares the proposed use to the peak development of Valle Verde in the 1990's (254 units). (Staff Report, p. 10). The existing use includes 213 or 208 independent living units (see *id.*) and thus pursuant to the above finding the Commission must evaluate whether the proposed use of 253 independent living units, plus the other development and operational components of the Valle Verde Project, increase the demand for resources and public services beyond the existing use or beyond the use demanded by development of the property in accordance with the single-family and slope density zoning.

With respect to the Rutherford Lot, there are two problems with making the above finding. First, since the Rutherford Lot is not currently part of the CUP for Valle Verde, the existing use of that parcel is 1 single-family home, with up to two residential units[2] allowed under the A-1 zoning and slope density requirements (*see* FEIR Appendix A, Initial Study, p. 7 (area: 3.50 acres, slope: 20%)). Accordingly, the proposed development on the Rutherford Lot of 10 residential units vastly increases the demand for all resources and services beyond the existing or allowed use, even taking into consideration the assumptions used in the EIR and staff report regarding the reduced demand for resources and services for senior housing as opposed to single-family housing. The second reason the above finding is problematic with respect to the Rutherford Lot is that it is specific to existing residential care facilities. Again, the Rutherford Lot is not currently part of the Valle Verde CUP. Accordingly, the Planning Commission is required to make findings for new residential care facilities (§28.94.030.R.2.a) before the Rutherford Lot may subjected to the CUP. Specifically, these findings include the following:

> (1) *The facility will generate a demand for resources such as water, traffic, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, and such resources are available in amounts adequate to service the proposed facility.*
> *(2) The intensity of use in terms of the number of people, hours of operation, hours of major activities, and other operational aspects of the proposed facility is compatible with any neighboring residential use.*

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[2] Because the Rutherford Lot includes slopes of 30%, the 2.0 times minimum lot area may in fact be the appropriate standard, reducing the allowed development of the Rutherford Lot to 1.75 units/acre (see Zoning Ordinance § 28.15.080).

(3) The proposed facility shall be able to be converted to a density which conforms to the residential unit density of the underlying zone. Sufficient land area has been shown to b e available to meet the parking demand of a future use.

The analysis of finding 1, above, is similar to the analysis of finding §28.94.030.R.2.b.2 discussed previously – 10 units far exceeds the demand for resources and services than development of the property in accordance with the underlying zone and therefore the finding cannot be made. Finding 2 also cannot be made for the 10 units proposed on the Rutherford Lot because the number of people (between 10 and 20 residents on the 3.5 acre lot) far exceeds the intensity of use on the neighboring residential parcels in the adjacent Hidden Oaks PUD. To make the findings required pursuant to §28.94.030.R.2.a and §28.94.030.R.2.b the number of units on the Rutherford parcel must be reduced. Specifically, units 6 and 7, 12 and 13 should be eliminated from the project description, and additional units may need to be removed in order to ensure that the demand for resources and services and intensity of use is equivalent to no more than 2 single-family residences. The removal of units 6, 7, 12, and 13 from the project description would reduce the Project's impacts to biological resources, bring the Project into closer conformance with General Plan Conservation Element Biological Resources Policy 4 (see below), reduce the Project's visual impacts from Torino Drive and the adjacent public pedestrian and equestrian trail, and bring the Project into better conformance with General Plan Conservation Element Visual Resources Policy 3 (see below).

b. Findings for CUP Approval Cannot Be Made With Respect to Site Area and Setback Sufficiency

Prior to approving the CUP for Valle Verde, the Commission is required to make the following finding:

The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided

(Zoning Ordinance § 28.94.020 (3)). The Rutherford Lot is not adequate to support the level of development proposed, and setbacks for development on the Rutherford Lot is not sufficient in view of the character of the land. Accordingly significant detrimental impacts surrounding properties is not avoided, in violation of this policy. Most notably, proposed units 6/7 obstruct scenic views of the Santa Ynez mountains, and units 6/7 and the proposed driveway and parking lot intrudes into formerly scenic foreground views of the Rutherford Parcel as seen from Torino Drive and the public pedestrian and equestrian trail adjacent to Torino Drive (see FEIR Figures 5.1-5a and b, 5.1-7a and b, 5.1-8a and b). The EIR relies excessively on vegetative screening which is problematic because vegetation takes time to grow, and further is not permanent. Fire, drought, disease, wind, and other natural forces can destroy vegetation, and further there is no prohibition against the future removal of vegetative screening. The Commission therefore must assume no vegetative screening for an accurate assessment of the Project's potential visual impacts, or a condition imposed to require

maintenance of landscaping for the life of the project. The County BAR practice is simply to eliminate consideration of vegetation as screening of proposed projects in evaluating visual impacts and policy consistency, and this should be the convention employed for Valle Verde unless a permanent condition is imposed. Regardless of screening, the visual impact from blocking of scenic resources by either the development's structures or its screening vegetation remains a significant inconsistency.

Eliminating units 6/7 and the proposed Rutherford driveway and parking lot from the project description would increase the distance between Torino Drive and Rutherford lot development, reducing the detrimental visual impact on surrounding properties. Moreover eliminating units 6/7 would avoid the need for a setback modification, discussed below.

c. Findings for Requested Setback Modifications along Torino Drive Cannot Be Made

Prior to approving a setback modification, the Zoning Ordinance requires that the Planning Commission find that the modification:

> *is consistent with the purposes and intent of this Title, and is necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement, or (iv) the modification is necessary to construct a housing development containing affordable dwelling units rented or owned and occupied in the manner provided for in the City's Affordable Housing Policies and Procedures as defined in subsection (A) of Section 28.43.020 of this Code.*

The Staff Report concludes that this finding can be made for the setback reduction from 35 to 25 feet along Torino Drive for unit 6. The rationale for this is as follows:

> The proposed Modification along Torino Drive to reduce the front setback from 35 feet to 25 feet is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. The reduction of the setback would not be out of character with the existing Valle Verde development or the adjacent Hidden Oaks development, because the unit that would be located in the front setback would be single story, similar to the existing Valle Verde development on Torino Drive.

(Staff Report, p. 17). There is no basis however for a finding that this setback is necessary to promote uniformity of improvement. Units 6/7 would form the western terminus of Valle Verde along Torino Drive, and its proposed location is closer to Torino Dr. than Valle Verde structures to the east, and also closer than Hidden Oaks PUD structures to the west. Simply eliminating units 6 and 7 would avoid the need for any setback modification, reduce the density on the Rutherford Lot as discussed in the previous section, and would reduce the Project's impacts to biological resources, bring the Project into closer conformance with General Plan Conservation Element Biological Resources Policy 4 (see below), reduce the Project's visual impacts from Torino Drive and the

adjacent public pedestrian and equestrian trail, and bring the Project into better conformance with General Plan Conservation Element Visual Resources Policy 3 (see below).

d. As Proposed, the Project Is Inconsistent with the General Plan Conservation Element

The general plan is the "constitution for all future developments," and all land use and development decisions must be consistent with the general plan. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 570). A project is inconsistent with the general plan "if it conflicts with a general plan policy that is fundamental, mandatory and clear." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777, 782). In addition to this state law requirement, the City's Zoning Ordinance requires that prior to approving the Valle Verde CUP the Commission must find that:

> *(1) Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan*

(Zoning Ordinance §28.94.020).

The Valle Verde Project is inconsistent with various policies in the City's General Plan Conservation element, including policies that are fundamental, mandatory and clear. Accordingly, the Project as proposed is inconsistent with the General Plan, and the Commission may not make require findings or approve the Project without modifications that resolve the inconsistencies.

> *Biological Resources Policy 4.0. Remaining Coastal Perennial Grasslands and Southern Oak Woodlands shall be preserved, were feasible.*

The western portion of the project site includes a southern oak woodland that contains over 500 trees. Implementation of the proposed project would impact approximately 0.24 acres of the oak woodland due to the development of proposed residences and required long-term fuel management activities. (FEIR p. 6-8). The FEIR finds that the Project is potentially consistent with this policy because mitigation measure BIO-1a requires that new oak woodland habitat be created on the site at a replacement ratio of 2:1, and the project applicant proposed to dedicate or otherwise restrict development rights on the 9.8 acre on-site oak woodland area.[3] (*Id.*). However, the discussion of this policy in the EIR and the Responses to Comment (see response to comment #29), ignore the clear

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[3] While the current proposal includes the dedication of 9.8 acres of oak woodland, it should be noted that the applicant is already required to dedicate 4 acres pursuant to an existing CUP requirement (*see* Staff Report Exhibit F, CUP resolution 093-84, amended 7/19/84, ("Prior to the issuance of building permits, the applicant shall complete the following: F. The applicant shall dedicate the development rights of the Oaks woodland containing approximately 4.0 acres to the City for the purposes of protecting the Oaks woodland and maintaining the open space in perpetuity."))

definition of the word *preserve*, which is "to keep safe from harm, injury" (Shorter Oxford English Dictionary (5th Ed., 2002)). In this context, *preserve* means not to remove or injure the existing oak woodland. Replacing and restoring oak woodland may arguably *mitigate* the Project's impacts on oak woodland, but does not achieve consistency with this clear policy mandate of the Conservation Element. The dedication of 9.8 acres of oak woodland also does not achieve consistency with this policy insofar as 0.24 acres of the woodland will not be preserved. The EIR and staff report do not make any claim that it is *infeasible* to preserve this additional 0.24 acre area of oak woodland, and indeed it can be accomplished by eliminating proposed units 12, 13, 16, 17, 18, 31, 32, 33, and 34 (see FEIR Figure 5.2-1).

> *Visual Resource Policy 3.0. New development shall not obstruct scenic view corridors, including those of the ocean and lower elevations of the City viewed respectively from the shoreline and upper foothills, and of the upper foothills and mountains viewed respectively from the beach and lower elevations of the City.*

Proposed development along Torino Drive (on the Rutherford Lot) clearly obstructs a scenic view corridor of the upper foothills and mountains viewed from lower elevations of the City. (*See* FEIR Figure 5.1-5a and b; Exhibit 1 (photographs of story poles erected for 4/12/11 Planning Commission site visit). The EIR finds potential consistency with this policy based on conclusions in the EIR aesthetic impact analysis that "existing views of the Santa Ynez Mountains and lower foothill areas as seen from viewpoints along Torino Drive would not be substantially affected (photosimulation 5.1-5b) by the proposed project (FEIR p. 6-3). However Visual Resource Policy 3.0 does not use a "shall not substantially affect" standard; it utilizes a "shall not obstruct" standard. The obstruction of mountain views by Project structures as seen from Torino Drive is a clear and unambiguous conflict with this fundamental visual resources policy.

> *Visual Resources Policy 4.1. Mature trees should be integrated into project design rather than removed.*
>
> *Visual Resources Policy 4.2. All feasible options should be exhausted prior to the removal of trees.*

The Project includes the removal of 15 oak trees and six other large specimen trees. (FEIR p. 6-7). The FEIR finds the Project potentially consistent with these policies, however does not discuss whether there are feasible options to removing some or all of these trees including changes to the project design. The FEIR discusses replacement as mitigation, however similar to Biological Resources Policy 4.0, replacement and restoration does not bring the Project into compliance with policies requiring that the trees not be removed in the first place. Several modifications to the project description could reduce the number of trees that would need to be removed, including eliminating the proposed driveway connecting Torino Drive to the Rutherford Lot. The development of this proposed driveway would require the removal of four oak trees that have six- seven-, seven- and 16-inch diameter trunks. (FEIR p. 9-14). The FEIR concludes that the alternative access via Calle

Sastre would require widening to 20 feet, which would result in the removal of only one oak. While the widening could impact 7 oaks, it would require less oak tree removal which is the focus of Visual Resources Policy 4.2. (*Id.*) Moreover, Calle Sastre could be widened to a lesser degree if, as recommended above, the density of units on the Rutherford Lot is reduced to enable the Commission to make required findings, avoid the requested setback modification from Torino Drive and bring the Project into closer conformance with several applicable policies. (*see* California Fire Code Development Standards for driveways (12 feet for driveway serving one residential lot or dwelling; 16 feet for driveway serving two residential lots or dwellings)).

> *Visual Resources Policy 2.1. Development which necessitates grading on hillsides with slopes greater than 30% should not be permitted.*

The Project includes development on slopes greater than 30% in several areas including units 16, 17, 18, 31, 33, 34, the driveway accessing units 31-34, and the southern end of the parking lot proposed in the existing maintenance building area. (*See* FEIR Figure 6.2-1). In accordance with this policy, these units and the southern end of the parking lot should not be permitted. The units should not be permitted for the additional reason that they encroach into oak woodland areas that must be preserved pursuant to Biological Resources Policy 4. There are other areas on campus that are better suited to additional parking including the area proposed for units 28, 29 and 30 which could be the location of a centrally-located parking lot or underground parking facility, and/or the area proposed for units 1-4 which similarly could be a centrally-located of a parking lot or underground facility.

3. Additional On-Site Parking and Enhanced Parking Conditions Are Required to Achieve Consistency with the City's Zoning Ordinance and Enable the Commission to Make Required Findings

For a variety of reasons, Valle Verde has not accommodated all of its parked vehicles on-site, rather has used Calle de los Amigos and other public streets to accommodate a large number of cars. While the EIR and staff report attribute this problem to staff convenience issues rather than to an insufficiency of on-site parking or parking for community activities and events, there is no evidence to support this claim. Discussed below, there are provisions of the Zoning Ordinance requiring parking for facilities at Valle Verde *other than* the residential component, and the recent disclosure regarding the community events and activities hosted at Valle Verde further undermines claims by Valle Verde that existing and proposed on-site parking is adequate. To address the insufficiency of on-site parking, the number of units should be reduced as discussed above, and on-site parking should be increased including if necessary by constructing an underground parking facility. Additionally CUP conditions must be strengthened to ensure that Valle Verde residents, staff, guests, and visitors all park on-site, and Project construction should be staged in order to require demonstrated compliance with on-site parking requirements prior to building permit issuance.

a. Proposed Parking Is Insufficient under the Zoning Ordinance Requirements

Off-street parking proposed for the Project is inadequate to meet Zoning Ordinance requirements. Specifically, both the staff report and EIR evaluate the Project's consistency with the Zoning Ordinance's parking requirements under the faulty assumption that Valle Verde includes *only* independent living, assisted living and skilled nursing, resulting in a total of 312 required parking spaces[4] (see FEIR p. 5.3-25). However, as demonstrated by the description of Valle Verde's facilities in the proposed CUP and elsewhere, Valle Verde includes much more than merely senior living units, including a 6,870 s.f. Administrative Building which includes 4 bed and breakfast units and administrative offices, conference room, and resident bank office, a 13,764 s.f. dining complex which includes a 351 seat multi-purpose/theater/aerobic room, 5,899 s.f. maintenance building which includes staff offices, and additional non-residential uses. When the Zoning Ordinance requirements are applied to these additional facilities, the required number of parking spaces increases as follows:

Valle Verde Facility	Zoning Ordinance Requirement	Parking Spaces Required
246 Independent Living Units 7 Studio Units	1 space/residential unit (§ 28.90.110.G.5, Senior Housing)	253* *assuming Valle Verde is restricted to accepting residents of 62 years of age or older
80 Skilled Nursing Beds 48 Assisted Living Beds* *based on CUP figures; if 52 beds are approved, two additional spaces must be provided.	0.5 space/bed (§28.90.100.J.17: Skilled nursing facilities)	64
4 Bed & Breakfast Units	1 space/sleeping unit (§28.90.100.J.10: Hotels)	4
Administrative offices, conference room and bank office: 5,045 s.f.	1 space/250 s.f. (or fraction thereof) (§28.90.110.I: Office, commercial, and industrial buildings)	44

[4] This number should be 317, not 312, considering that with the proposed expansion Valle Verde will have 246 independent living units, 7 studio units, an 80 bed skilled nursing facility and a 48 bed assisted living facility (253 units requiring 1 parking space and 128 beds requiring 0.5 parking spaces/bed results in 317 required parking spaces)

Maintenance building including hobby shop, maintenance shop, maintenance staff offices: 5,899 s.f. [5]		
351 seat multipurpose/theater/aerobic room	1 space/4 seats (§28.90.100.J.10: theaters, auditoriums, similar places of assembly)	88
6,882* s.f. Dining Hall *based on the assumption that ½ of the dining complex is used for food service	1 space/250 s.f. (§28.90.110.I: Office, commercial, and industrial buildings – note, otherwise food service staff are unaccounted for)	28
		= 481* *483 if 52 assisted living beds are approved

Additionally, parking spaces for the social room and other project facilities may also be required under the Zoning Ordinance requirements, particularly because these facilities accommodate the activities, classes, meetings and events that draw community members to the Valle Verde site (see section 1, above). This would increase the number of required parking spaces beyond the 481 spaces indicated above.

The senior housing classification on which the 1 space/unit requirement is derived (§ 28.90.110.G.5, Senior Housing) moreover may not apply even to the residential units onsite because it requires that the housing be "restricted to residential uses by elderly and senior persons, sixty-two (62) years of age or older." (Zoning Ordinance § 28.90.100.B.2). Valle Verde currently accepts residents 60 years of age or older, and has not consented to increasing this age restriction to 62 as the draft CUP proposes. If Valle Verde will not adhere to the 62 year age limitation, then the parking requirements for general residential use of two spaces per residential unit is required. This would increase the parking required for the residents of the independent living units from 253 to 454 parking spaces (*see* Zoning Ordinance §§ 28.90.100.G.3.a-c). (*See* letter submitted on 4/11/11 by Jermaine Chastain for a full breakdown of required parking under this scenario, totaling 750 parking spaces when guests and other Project facilities accounted for).

[5] In the event that some or all of the Maintenance Building is more appropriately considered an industrial use, a revision to this figure would be required considering that general industrial uses require 1 parking space per 500 s.f. of net floor area or fraction thereof.

b. Findings of Adequate Parking Required for CUP Approval Cannot Be Made

Discussed above, the proposed on-site parking does not comply with the Zoning Ordinance requirements. Moreover, the proposed additional employee and guest parking is not sufficient to enable the Commission to make the finding required for CUP approval that:

> *Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time*

One significant impediment to the Commission making this finding is that the proposed CUP allocates 49 spaces to visitors, but none at all to guests. The 253 – 506 residents of the independent living units and the 128 residents of the assisted living and skilled nursing facilities (381 – 634 total residents) will have guests that drive to and must park at Valle Verde. These personal guests of the residents are an entirely distinct group from visitors of Valle Verde, which we now know include members of the community that attend Valle Verde activities. Moreover, the recently disclosed operational component of Valle Verde – the hosting of outside classes/meetings/activities/events – contribute an unknown and potentially significant number of vehicles that also must be accommodated at Valle Verde. Under these circumstances it is not possible for the Commission to find that adequate off-street parking is provided in a manner and amount so that the demands of the development are adequately met without altering the character of public streets.

The proposed CUP condition for an on-site residential and employee permit parking program (CUP Condition 12) is fundamentally inadequate to resolve Valle Verde's on-street parking problem. One key flaw in the proposed program is that it does not address visitor and guest parking. Discussed above and in section 1, the number of visitors and guests of Valle Verde may be substantial and the record contains no evidence whatsoever that the 49 visitor spots could be sufficient for the guests of residents and visitors of Valle Verde. A second key flaw is that Condition 12 provides that each independent residential living unit will be issued one parking sticker, but does not prohibit residents of the independent living units (and studios) from having more than one car parked in the area. A third, related flaw, is that there is no stated mechanism for limiting on-street parking. The mere fact that a parking sticker will be issued to each residential unit and each staff member does not alone do anything to address the on-street parking program. The stated intent of the program is that all residents and employees shall park on-site, but much more detail is required to ensure that the condition is actually capable of realizing that goal. A detailed enforcement plan is one missing element for example, that must be incorporated into the CUP for Condition 12 to function as intended. Another key flaw in the parking-related conditions is the failure to address special event attendees. The fact that Valle Verde may have recently began bussing some event attendees to Valle Verde from an off-site location is meaningless unless such a provision is expressly required by the CUP.

Substantial improvement to the CUP's parking conditions is necessary to ensure Valle Verde residents, staff, visitors, and guests do not park on area streets. Other retirement communities in Santa Barbara including Samarkand have much more stringent CUP requirements that should be evaluated for potential application at Valle Verde. One way of assuring that on-site parking is adequate and that the CUP conditions are effective at eliminating the use of area streets for Valle Verde parking is to stage the approval of building permits such that Valle Verde must demonstrate compliance with the parking conditions as a prerequisite to obtaining approval for each additional increment of development.

4. CEQA Inadequacies

This office, Planner Christina McGinnis, and Biologist David Magney submitted comments on the draft EIR, as well as individual members of the Hidden Oaks community. Notwithstanding the responses to comment, our comments submitted on the draft EIR remain relevant and we generally restate them here for the record. The following addresses CEQA issues that have arisen since the draft EIR release, including the significance of the new information regarding special events the adequacy of the responses to comment.

a. Failure to Describe Existing and Proposed Special Events, and to Analyze and Mitigate their Impacts

The EIR for the Project is wholly silent on the community activities and events described above, misleading the public and decisionmakers regarding the nature of Valle Verde's operations the number of visitors to Valle Verde. This problem relates to the broader problem that the draft and final EIRs do not adequately disclose the operational components of the existing or proposed facilities. An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published . . . ." (CEQA Guidelines § 15125(a)). "If the description of the environmental setting of the project site and surrounding area is inaccurate, incomplete or misleading, the EIR does not comply with CEQA." *Cadiz Land Co. v. County of San Bernardino* (2000), 83 Cal. App. 4th 74, 87. "'Without accurate and complete information pertaining to the setting of the project and surrounding uses, it cannot be found that the FEIR adequately investigated and discussed the environmental impacts of the development project.'" (*Id.*, quoting *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal. App. 4th 645, 729). Pursuant to these standards, the EIR's failure to disclose and describe existing special events that occur at Valle Verde results in an incomplete and misleading environmental setting, and it cannot be found that the EIR adequately investigated and discussed the environmental impacts of the Project. Moreover, the significant revision to the environmental setting required to incorporate these events, alters the baseline conditions such that revision and recirculation of the EIR is required. (*See Save Our Peninsula,* 87 Cal. App. 4th at 143 (correcting inaccurate baseline studies triggered CEQA's requirement for recirculation)).

The failure to disclose that events would be an ongoing component of Valle Verde's operations that may be increased by virtue of the expansion of various campus facilities constitutes a failure to include a complete and accurate project description as required by CEQA. "To fulfill its role of ensuring the lead agency and the public have enough information to ascertain the project's environmentally significant effects, assess ways of mitigating them, and consider project alternatives, an EIR must provide "[a]n accurate, stable and finite project description . . . ." (*Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533 (quoting *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1448)). The Project Description in the Valle Verde EIR is flawed and incomplete for failing to describe the operational components of the Project including special events. How many visitors and guests, as well as employees and residents are anticipated to be onsite on a regular basis is necessary to evaluate the environmental impacts of the Project, most notably in the areas of traffic, parking, and land use compatibility. The traffic study's reliance on published trip generation rates leaves open the question of whether those rates accurately reflect the true traffic generation of the Project. Similarly, the analysis of available and required parking lacks any actual evaluation of the number of people living, working, and visiting Valle Verde that will require parking. Parking and traffic both contribute to the land use compatibility impacts of the project, but the sheer number of people at Valle Verde bears on the analysis of whether the intensity of use of the Project site is consistent with neighboring residential uses.

Due to these serious omissions from both the environmental setting/baseline and the project description, the EIR is fundamentally inadequate and requires recirculation and revision before it may lawfully be certified by the Commission. (*See* CEQA Guidelines § 15088.5 (a)(4); *Save Our Peninsula,* 87 Cal. App. 4th at 143).

b. Inadequate Responses to Comment

CEQA Guidelines § 15088 requires that that the City evaluate comments received on the draft EIR and provide a written response that "describes the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections)." "In particular, the major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed *in detail* giving reasons why specific comments and suggestions were not accepted." (CEQA Guidelines § 15088 (c) (*emphasis added*)). "There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice." (*Id.*). The evaluation and response to public comments is an essential part of the CEQA process, and failing to comply with CEQA Guidelines § 15088 can be grounds for the issuance of a writ of mandate to set aside an approval decision. (Remy et al., *Guide to CEQA* (11th ed., 2007), p. 371; *Envtl. Prot. Info. Ctr. v. Johnson* (1985) 170 Cal. App. 3d 604, 627). The responses to comments on the draft EIR for the Valle Verde Project fail to meet these basic standards of adequacy. Some specific examples are as follows:

Response to Comment #13-3:

Comment 13-3 raises the important issue that the draft EIR fails to quantify the number of residents and staff expected to be onsite at any given time and during times of peak parking demand for purposes of evaluating the Project's parking, traffic, and emergency evacuation impacts. The comment clarifies that published trip generation rates rather than actual site usage was used to evaluate the Project's parking, traffic, and emergency evacuation impacts. The critical link however that the comment response fails to address is that the number of residents and staff (and also visitors and guests) must be disclosed to determine whether they match with the trip generation rates used to evaluate project impacts. As the staff report makes clear (discussed in section 1 above and section 3.b below) the draft EIR's failure to fully disclose the number of people living, working, and visiting the site and the operational components of Valle Verde including the special events hosted onsite, render the EIR fundamentally inadequate.

Response to Comments #13-12, 13-13, and 13-14:

Comments 13-12 - 14 raises the significant issue of the City's injection of a new requirement into the visual impact thresholds of significance – specifically the "importance" of the affected public view. The comment response provides several examples of EIRs that emphasized important public viewpoints in the selection of visual simulation locations, however does not address the propriety of introducing the "importance" criteria into the actual thresholds of significance. Torino Drive is a public road, and the EIR and the adjacent pedestrian and equestrian trail is used by members of the public including members of the Hope Ranch Riding & Trails Association (*see* Hope Ranch Riding & Trails Association Map at http://hrrta.com/hoperanchtrailmap.aspx)). Discounting impacts from this view location is inappropriate and remains unfounded.

Response to Comments #13-19 and 13-20:

Comments 13-19 & 13-20 raise the issue of deferred selection of restoration sites and site selection criteria in the biological resource mitigation measures. The comment response addresses the deferral of basic goals and objectives, and success criteria, but does not address the fundamental issue of whether it is permissible to defer the selection of restoration site criteria. As we maintain in our draft EIR comments, such an approach constitutes impermissible deferral of mitigation without adequate performance standards.

Response to Comment # 13-29:

Discussed at length in the context of Biological Resources Policy 4, the operative word in this policy is "preserve", as the comment makes clear. The response to comment refers to replacement and restoration, but does not address the comment's concern regarding the Project's failure to preserve oak woodland habitat. In this respect the comment response is unresponsive to the comment and does not support a conclusion that the Project is consistent with this policy.

Response to Comment # 11-4:

The comment states that many spring-flowering rare plants are annual or herbaceous perennial species that are either not detectible or identifiable during the fall or winter (hence rendering the winter surveys inadequate). The comment response (referring to response 11-2) states that the only plants that could be overlooked in winter surveys are annual species. This response does not provide any factual support for this statement, and overlooks the fact that perennial species such as *Sanicula hoffmannii* could sprout following the vegetation clearing that regularly occurs on the Valle Verde campus.

5. Conclusion

For all the reasons stated herein, before the Commission can make legally required findings, the proposed CUP must be modified to reduce the level of development allowed and strengthen the conditions. Specifically, we request that the project description be revised as follows:

- Eliminate units 6/7 and 12/13 to achieve compliance with General Plan visual resource policies, eliminate the proposed setback modification from Torino Drive, and help reduce the density of development on the Rutherford lot to allow the Commission to make findings required for CUP approval.
- Eliminate the proposed driveway and parking lot on the Rutherford lot enable the Commission to make required findings regarding intensity of use and visual compatibility on the Rutherford lot
- Eliminate units 16/17, 18, 31, 32, 33 and 34 to preserve oak woodland habitat and achieve compliance with biological and visual resource policies of the General Plan
- Eliminate the southern end of the maintenance area parking lot to achieve compliance with visual resource policies (grading on 30% slopes), and instead utilizing the areas proposed for units 28, 29, and 30 and/or units 1-4 for parking
- Increase on-site parking by constructing an underground parking facility

We also request that the conditions in the CUP be strengthened in the following ways:

- Enhance the parking permit condition to incorporate specific restrictions and an enforcement mechanism to ensure that it is effective at avoiding on-street parking, including for community members attending Valle Verde activities or special events
- Incorporate a condition making demonstrated compliance with the on-site parking requirements a precondition to obtaining building permits
- Incorporate a condition that additional public ABR hearings will be required prior to the final approval of the landscape plan, including tree plantings proposed as part of the habitat restoration plan

- Incorporate a condition that ABR must consider and may require enhancement of the architecture of existing Valle Verde development prior to final architectural approval
- Enhance the habitat restoration plan to set strict limits on future fuel modification, and require that oak seedlings raised onsite be evaluated for viability prior to planting

We would welcome an opportunity to work with City Staff to help refine the above requests to achieve a Project that is acceptable given the many site constraints present on the Valle Verde property.

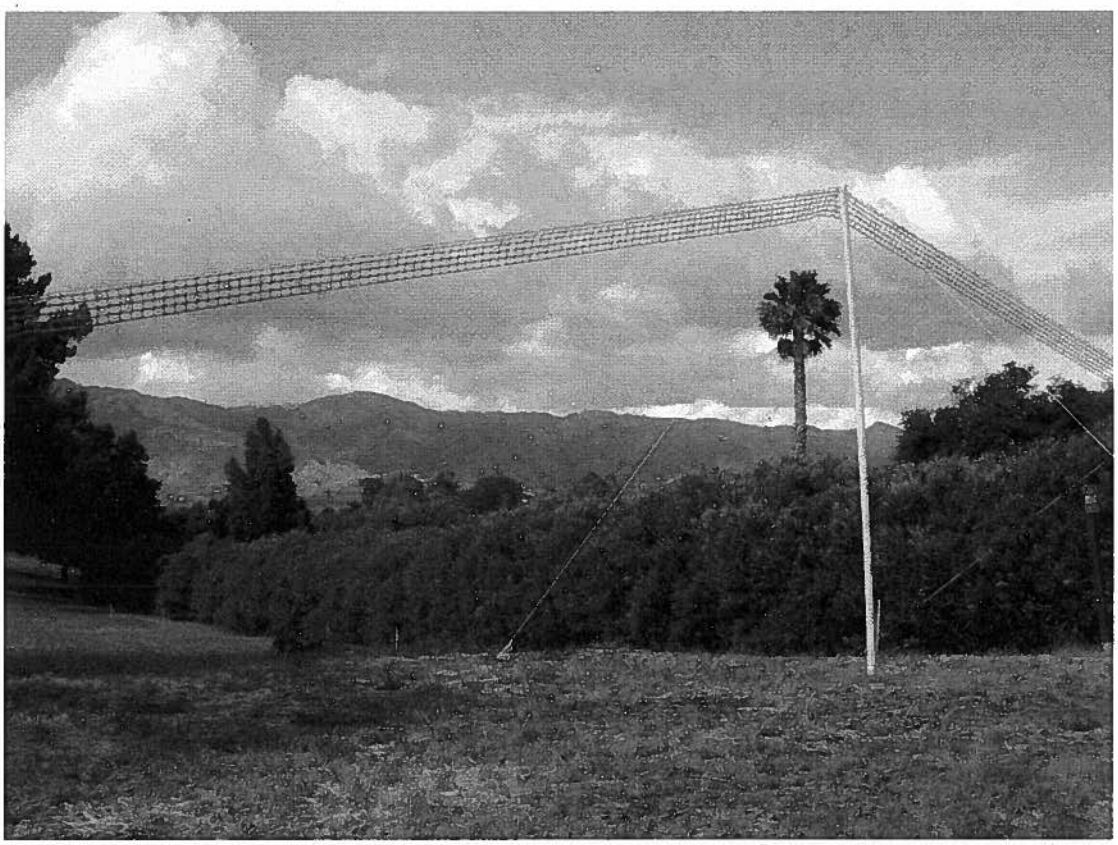
Sincerely,

LAW OFFICE OF MARC CHYTILO

Ana Citrin
Marc Chytilo
Attorneys for Hidden Oaks Homeowners Association

Exhibit 1: photographs of story poles erected for 4/12/11 Planning Commission site visit

EXHIBIT 1



LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

October 18, 2010

City of Santa Barbara Planning Division
Attn: Peter Lawson, Associate Planner
P. O. Box 1990
Santa Barbara, California 93102-1990

By email to plawson@santabarbaraca.gov

RE: Valle Verde Retirement Community Project Draft EIR Comments

Dear Mr. Lawson:

This office represents the Hidden Oaks Homeowners Association in this matter. We have reviewed the draft EIR ("DEIR") for the Valle Verde Retirement Community Project ("Project") and find that it suffers from numerous material flaws and omissions. A legally adequate EIR "must contain sufficient detail to help insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug." (*Kings County Farm Bureau v. City of Hanford* (1999) 221 Cal. App. 3d 692, 733). The DEIR for the Valle Verde Project is inadequate when assessed pursuant to this basic California Environmental Quality Act ("CEQA") standard. Additionally, several of the flaws evident in the Valle Verde DEIR, namely the failure to identify, analyze and mitigate significant impacts resulting from land use incompatibility, and the failure to utilize consistent thresholds of significance, result from flaws in the City's environmental review process and constitute a pattern and practice of violating CEQA.

The impact analysis and conclusions of no Class 1 impact in the areas of biological resources and parking is undermined by flawed baseline studies, and an entire category of impacts is missing from the DEIR as a result of the City's failure to address land use incompatibility. These and other flaws are so substantial that the City has deprived the public of the required opportunity to provide meaningful comment on the draft EIR. Moreover, correcting these flaws and filling in gaps in the impact disclosure and analysis will introduce significant new information. In light of this, recirculation of a revised draft EIR is required by CEQA to allow the public to meaningfully review and comment on a legally adequate draft EIR. (*See Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal. App. 4th 1184).

The Valle Verde Retirement Community currently includes 213 residential units, 11 studio units, a 45-room 48-bed Assisted Living Facility, 36-room, 80-bed Skilled Nursing Facility, as well as other facilities, on a 59.75 acre site zoned for single family residential use. Valle Verde is allowed to exist in this single-family residential zone district only with a Conditional Use Permit ("CUP"), and by many accounts is currently operating in violation of its existing CUP. The Project will add 33

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net new units to the site, the majority of which are proposed adjacent to established single-family residential neighborhoods and/or sensitive oak woodland habitat. To accommodate this increased development, not only is a CUP Amendment required, but also modifications allowing for reduced distance between buildings, reduced front yard setbacks, reduced interior yard setbacks, and a Lot Line Adjustment ("LLA"). An accurate and thorough DEIR is necessary to ensure that this Project does not have significant unmitigated impacts on the environment, including on surrounding single-family residential uses, visual resources, and sensitive biological habitat.

1. Project Description

An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 730 (quoting *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 193)). Furthermore, "[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." (*San Joaquin Raptor/Wildlife Rescue,* 27 Cal. App. 4th 713, 730). An EIR must describe and analyze "the whole of an action" that may result in either a direct or reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines § 15378 (a)).

The Project Description in the Valle Verde DEIR is defective because it fails to describe several key components of the Project. First, it fails to identify the number of employees that would be hired, and whether new employees would be full-time or part time.[1] The DEIR vaguely concludes that "[b]ased on the employee shift times and the FTE staff hours it does not appear that the proposed project would add a substantial number of additional staff." (DEIR p. 5.3-13). However actual data is required to substantiate this claim. (*Santiago Water District v. County of Orange* (1981) 118 Cal. App. 3d 818, 831 ("The EIR must contain facts and analysis, not just the bare conclusions of a public agency")). Also, the DEIR fails to identify how many new residents are anticipated after the proposed expansion. While the numbers given for the existing residents demonstrate that on average more than one resident would occupy each residential unit (199 people living in 250 apartment units as of 2009 (DEIR p. 4-8)), the DEIR fails to provide any estimate whatsoever of the range of anticipated new residents. Additionally, the DEIR fails to disclose any information regarding employee shifts, and how many employees would be onsite at any given time, or during times of peak parking demand or peak hour traffic, either under current or post-Project conditions. Without this crucial information regarding the number of people anticipated to reside on-site, and the number of employees onsite at any given time and at peak parking demand and peak hour traffic, not only the Project Description but also the parking, traffic, and emergency evacuation impact analyses are fundamentally defective.

[1] The DEIR fails to specify how many part-time employees currently work at Valle Verde, specifying only that 153 full time equivalent employees worked at Valle Verde in 2009 (DEIR p. 4-8).

2. Environmental Baseline

Baseline studies establish the existing physical conditions by which a lead agency determines whether an impact is significant. (CEQA Guidelines § 15125). The "baseline determination is the first rather than the last step in the environmental review process." (*Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal. App. 4th 99, 124-125). An inaccurate environmental baseline taints entire impact analysis. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 952 ("Before the impacts of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.") Additionally, correcting inaccurate baseline studies triggers CEQA's requirement for recirculation. (CEQA Guidelines § 15088.5, *Save Our Peninsula,* 87 Cal. App. 4th at 143 (EIR recirculation required where water supply baseline inaccurate)).

a. Biological Resources

Baseline studies that determined which plants occur on the Project site were conducted on December 15, 2009, and January 26 and February 26, 2010. (DEIR p. 5.2-2). As explained and documented in the comment letter submitted by biologist David Magney (October 13, 2010), very few plants are flowering or fruiting during these months. According to Mr. Magney's expert opinion and based on a review of applicable guidelines, "many plants cannot be fully or accurately identified without examining either the flowers or fruit, [and therefore] surveying for them outside their flowering period will result in negative findings." (Magney Letter, p. 2). Accordingly, Table 5.2-1 which lists the vegetation observed within the Valle Verde expansion project area is not an accurate characterization of special status plants that are known or likely to be present on the site.

Baseline studies with respect to wildlife are also flawed. The DEIR provides that "[d]uring the performance of field surveys for this EIR, no evidence was observed, such as a game trail with animal tracks, scat, or trampled vegetation, which would indicate that this open non-native grassland habitat [on the Rutherford parcel] was used by wildlife as a movement corridor." (DEIR p. 5.2-8). However, according to accounts of adjacent residents, a large portion of the grassland area on the Rutherford parcel was mowed just prior to the wildlife surveys conducted by Watershed Environmental. Evidence such as trampled vegetation, showing that the grassland area is used as a wildlife movement corridor would not have been apparent, and according to Mr. Magney, "would almost certainly skew the findings of any biological resources survey of the site." (Magney Letter, p. 3).

Section 3 (c), *infra*, discusses how these flawed baseline studies affects the biological resources impact analysis.

b. Parking and Traffic

The DEIR states that Valle Verde currently has 331 existing parking spaces, however public testimony at the DEIR hearing provided that only 292 parking spaces exist on-site based on actual visual inspection of Valle Verde's parking facilities. Members of the public as well as the Planning Commissioners specifically requested clarification regarding this discrepancy, and if further investigation determines that fewer than 331 spaces exist, the environmental baseline, impact analysis and proposed new parking must be modified accordingly.

The DEIR bases its traffic impact analysis upon trip generation studies performed in 2006. With the ever-increasing mobility of today's more active seniors, the City must conduct more current studies to ensure a robust and accurate traffic impact analysis.

3. Impact Analysis and Mitigation

An EIR must effectuate the fundamental purpose of CEQA: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." (*Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1993) 6 Cal.4th at 1112, 1123). The EIR must reflect the analytic route the agency traveled from evidence to action and may not consist of bare conclusions. (*Kings County Farm Bureau,* 221 Cal. App. 3d at 733; *Santiago Water District,* 118 Cal. App. at 831). The EIR's analysis must be sufficiently detailed to foster informed public participation and enable the decision makers to consider the environmental factors necessary to make a reasoned judgment. (*Berkeley Keep Jets Over the Bay Com. v. Board of Port Commissioners* (2001) 91 Cal. App. 4th 1344, 1355). The environmental analysis in the DEIR fails to fulfill CEQA's informational goal and is therefore inadequate.

"CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible." (CEQA Guidelines § 15021 (a)). Accordingly, an EIR must identify feasible alternatives and mitigation measures that avoid or mitigate the significant environmental impacts. (CEQA Guidelines §§ 15126.4, 15126.6 (b)). Deferring the formulation of mitigation measures until after project approval is inadequate, unless specific performance standards are identified. (CEQA Guidelines § 15126.4(a)(1)(B), *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307-309). The DEIR fails to require adequate mitigation to avoid or minimize environmental damage, and impermissibly defers mitigation for biological and aesthetic impacts without adequate performance standards. For the City to fulfill its duty under CEQA, more robust mitigation measures must be required or project impacts must be avoided with an alternative.

a. Pattern and Practice: Failure to Adopt Thresholds of Significance

CEQA encourages each public agency to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. (CEQA Guidelines

§ 15064.7). By adopting thresholds of significance, a lead agency "promotes consistency, efficiency, and predictability" in the environmental review process. (Office of Planning and Research, *Thresholds of Significance: Criteria for Defining Environmental Significance* (CEQA Technical Advice Series, 1994), p. 4)). The City of Santa Barbara to date has no adopted CEQA thresholds of significance. Rather, thresholds used for individual projects derive in part from the antiquated Master Environmental Assessment (MEA), from the CEQA Guidelines, from Staff memoranda, and other unknown sources in an *ad hoc* manner. The Valle Verde DEIR, like many other City environmental documents, fails to identify the source of the specific thresholds used for individual impact categories. This creates inconsistency and unpredictability in the City's environmental review of each project, deprives the public of the ability to verify the source of a given threshold, and creates the potential for each environmental document to utilize the threshold that best achieves the desired outcome (*see* Aesthetic Impacts, below for further discussion). This failure to adopt thresholds of significance, undermining the consistency and legitimacy of City environmental documents, constitutes a pattern and practice of violating the requirements of CEQA.

b. Aesthetic Impacts

i. Omitted Impact Analysis

The aesthetic impact analysis focuses almost exclusively on vegetation changes, and fails to meaningfully analyze impacts associated with new built elements of the Project including retaining walls, new buildings, and parking lots. Additionally, the DEIR acknowledges that "[c]ars parked along the east and west sides of Calle de los Amigos are . . . a dominant visual feature" (p. 5.1-3), however it fails to analyze the visual impact associated with increasing the number of parked cars resulting from the proposed expansion. The DEIR also fails to disclose significant aesthetic impacts caused by the removal of oak woodland and coastal sage scrub habitat, and furthermore the mitigation proposed to mitigate the significant biological impacts associated with this vegetation removal (BIO-1) is not only legally inadequate to mitigate the biological impacts (*see* discussion in section 3 (c)(ii), *infra)* but is also legally inadequate to mitigate significant aesthetic impacts because key aspects of the restoration including the location of the restoration areas is deferred to the post-approval stage without any performance standards regarding location and mitigation of aesthetic impacts (DEIR p. 5.2-34). These omissions result in an incomplete impact analysis.

ii. Omission of Applicable Threshold of Significance

To assess the Project's aesthetic impacts the DEIR utilizes thresholds of significance that differ substantially from the thresholds utilized in other City environmental review documents including the DEIR for the Elings Park Project, another institutional use in the same geographic area, produced by the same consultant just last year. (*Cf.* DEIR p. 5.1-17 and Elings Park DEIR, p. 5.1-25). One threshold included in the Elings Park DEIR that is lacking from the Valle Verde DEIR is that the project would result in a significant aesthetic impact if it would result in a "substantial negative aesthetic effect or incompatibility with surrounding land uses or structures due to project

size, massing, scale, density, architecture, signage, or other design features." (Elings Park DEIR p. 5.1-25). There is no stated or apparent basis for including this threshold in the Elings Park DEIR and not the Valle Verde DEIR, and the disparity between the density of Valle Verde with the density of the surrounding single family neighborhood makes clear that this threshold must be applied to the Valle Verde Project. When evaluated pursuant to this threshold, the addition of substantially more density onsite results in a significant new aesthetic impact.

iii. Flawed Analysis of Impacts to Public Scenic Vistas

The DEIR's analysis of impacts resulting from new development visible from the public hiking/pedestrian trail is deeply flawed. The visual simulation provided in Figure 5.1-8a demonstrates a dramatic alteration in the scenic vista caused by the introduction of new dwelling units and a driveway into what was previously grassland. The DEIR admits that the "conversion of foreground views of the small non-native grassland/open area to a developed condition would be an adverse impact, but is not considered significant because views would not be from important public scenic viewpoints"[2]. The City's pattern and practice of failing to adopt CEQA thresholds also manifests itself in the analysis of this impact. Specifically, the DEIR defines "important public scenic views" differently from the Elings Park DEIR, specifically including a new qualifier "and are viewed by a substantial number of citizens." (*Cf.* DEIR p. 5.1-1 and Elings Park DEIR p. 5.1-1). This new qualifying factor for "important public scenic view" is expressly used in the impact analysis to reach a finding of no significant impact as described above, because the DEIR states that "views from the trail are not considered to be an important public scenic view due to very low use". (DEIR p. 5.1-34). Not only is the use of these inconsistent thresholds and definitions suggestive of ad-hoc rationalization of impact insignificance as opposed to good faith analysis, the DEIR also provides no information whatsoever substantiating its claim that the trail experiences very low use. Moreover, the City may not rely exclusively a given threshold of significance in determining whether an impact is significant, but must consider all substantial evidence supporting a fair argument of a significant impact. (*Mejia v. City of Los Angeles* (2005) 130 Cal. App. 4th 322). With respect to visual impacts from the hiking/pedestrian trail, the DEIR itself provides substantial evidence of the significance of the visual impact, and the only basis for the conclusion of no significant impact is the DEIR's reliance on the contrived definition of "important public view location" to discount the importance of the trail (*see also* fn. 2). Such an approach is fundamentally contrary to CEQA, and demonstrates that a significant unmitigated impact exists that requires identification, analysis, and the adoption of mitigation measures and/or alternatives. One clear alternative that the revised DEIR should consider is removing the proposed dwelling units and driveway that encroach into the foreground views from the trail.

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[2] The DEIR also explains that the grassland area is a relatively small feature and foreground views of open area located between the project site and the Hidden Oaks neighborhood would remain, however it is the introduction of the new development between the trail and the panoramic views of the mountains, more than the loss of grassland or open area that accounts for the significance of the impact.

The same infirmities that affect the visual impact analysis from the public hiking trail also affect the adequacy of the impact analysis with respect to views from Torino Drive Evaluation Location No. 1. The DEIR provides for example that although the "view is considered to be somewhat unique because mountain views from many public locations in the Hidden Valley neighborhood are obscured or diminished by intervening vegetation and structures. . . . the views from this location are not experienced from a heavily visited public viewpoint as there is a very limited amount of traffic and pedestrian use along this segment of Torino Drive. (DEIR pp. 5.1-20, -21).

These substantial defects in the visual impact analysis demonstrate that significant unmitigated impacts to aesthetics remain, and substantial revision of the EIR, including the development of new mitigation measures and alternatives is required.

c. Biological Resource Impacts

i. Impacts to Special Status Plant Species

Because the baseline with respect to vegetation present in the expansion area is inaccurate, there is no substantial evidence supporting the EIR's conclusion that no sensitive plants are located within the areas where development and/or fuel modification are proposed (DEIR p. 5.2-12), and accordingly no substantial evidence that the proposed development and/or proposed fuel modification will not have a "substantial effect on protected plant . . . species listed or otherwise identified or protected as endangered, threatened or rare" (Impact Evaluation Significance Threshold B, DEIR p. 5.2-23). Proposed mitigation to address the two perennial sensitive plants that potentially occur on the site (DEIR p. 5.2-31) is inadequate to address impacts to unidentified annual plants that would have been overlooked because of the untimely surveys. New surveys must be conducted at the proper time of year (spring and summer months, *see* Magney Letter, p. 2), and if those surveys demonstrate that protected plants are indeed present in the area proposed for development and/or fuel modification, then mitigation measures and/or alternatives must be developed to avoid or protect populations of those species.

Additionally, MM BIO-4a proposed to mitigate impacts on Santa Barbara honeysuckle and/or Mesa Horkelia is inadequate because it defers mitigation to the creation of a habitat restoration/mitigation plan, that in turn will determine the selection of restoration sites, the site selection criteria, site preparation and planting methods, planting pallet, maintenance schedule, and mitigation goals, objectives, and success criteria. (DEIR pp. 5.2-38, -39). CEQA does not permit the deferral of mitigation measures without performance standards (CEQA Guidelines § 15126.4(a)(1)(B)) and courts have invalidated mitigation measures like MM BIO-4a that defer mitigation goals, objectives, and success criteria (*Defend the Bay v. City of Irvine* (2004) 119 Cal. App. 4th 1261, 1275 (deferral impermissible when the agency "simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be made in that report").

Because unidentified special status plant species may be present in the development and/or fuel modification area, and because the mitigation measure proposed to mitigate impacts to special status plant species fails to mitigate any loss of unidentified species and further represents impermissibly deferred mitigation without performance standards, the DEIR lacks substantial evidence supporting its conclusion that the Project will not have significant unmitigated impacts to special status species.

ii. Impacts to Oak Woodland and Coastal Sage Scrub Habitat

Similar to the above deficiency in MM Bio-4a, MM Bio-1a also defers mitigation to the creation of a habitat restoration plan without adequate performance standards. Specifically the habitat restoration plan, to be prepared following Project approval (at the grading or building permit stage), defers the identification of restoration site selection criteria, where restoration/mitigation will occur, site preparation and planting methods, planting pallet specifics, maintenance schedule, mitigation goals, objectives, and success criteria, and a description of the monitoring methods and reporting that will be used to document and measure the progress of the restoration/mitigation effort. (DEIR p. 5.2-34). This approach violates CEQA prohibition on deferring mitigation measures without performance standards (CEQA Guidelines § 15126.4(a)(1)(B); *Defend the Bay,* 119 Cal. App. 4th 1261) and moreover the DEIR lacks substantial evidence supporting its conclusion that the Project will not have significant unmitigated impacts to oak woodland and coastal sage scrub habitat.

iii. Impacts to Wildlife Movement Corridors

Because the baseline with respect to wildlife activity in the expansion area is inaccurate, there is no substantial evidence that the proposed development and/or proposed fuel modification will not cause the "elimination or substantial reduction or disruption of . . . wildlife habitat or migration corridors" (Impact Evaluation Significance Threshold A, DEIR p. 5.2-23). New surveys must be conducted with sufficient time following any vegetation clearing to identify any wildlife movement corridors, and if those surveys demonstrate that wildlife movement corridors are present in the area proposed for development and/or fuel modification, then mitigation measures and/or alternatives must be developed to protect those corridors.

iv. Impacts to Sensitive Status Wildlife

According to the DEIR, 16 sensitive wildlife species have a moderate to high potential to occur in the project area including silvery legless lizards and coast horned lizards, both California Department of Fish and Game (CDFG) Species of Special Concern. The soil type underlying the non-native grassland habitat in the proposed development areas (sandy loam) is suitable for both these species. While the DEIR concludes that impacts to these species would be significant but mitigable (DEIR pp. 5.2-25, -31), proposed mitigation is inadequate to reduce impacts to these species below significance. Specifically, proposed mitigation does not include avoidance of the areas

where these species are likely to occur, but rather monitoring during vegetation removal and grading, and the relocation of any lizards encountered. The DEIR provides no performance standards for judging the success of relocation efforts, or even provide any specifics regarding where encountered reptiles would be relocated to. A paper in the scientific journal Herpetologica surveyed the success of repatriation and translocation programs for amphibians and reptiles and concluded that the overall success rate is "considerably lower than for birds and mammals" (birds and mammals programs having an overall project success rate of 44%). (*See* Exhibit 1 (K. Dodd and R. Seigel, Relocation, Repatriation, and Relocation of Amphibians and Reptiles: Are They Conservation Strategies that Work? Herpetologica, 47 (3) 1991, 336-350)). Dodd and Seigel conclude that amphibian and reptile relocation programs "should be considered experimental unless long-term studies document the feasibility of the movement on the same or a related species." Because of the uncertainty associated with the success of reptile relocation, there is no substantial evidence that MM BIO-3 (3) will actually mitigate potentially significant impacts to silvery legless lizards and coast horned lizards below significance. (*Sunstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 306-308 (because the success of mitigation was uncertain, the agency could not have reasonably determined that significant effects would not occur)).

d. Fire Risk and Emergency Evacuation Impacts

The Project site is located in an area of High and Extreme Fire Hazard (Exhibit 2). The Painted Cave fire which burned from the Painted Cave area down to Hope Ranch in one evening, provided a vivid example of how wildfire can sweep down through this area, leaving residents little time to evacuate. The DEIR's emergency evacuation analysis is entirely inadequate and the conclusion of no significant impact is not supported by substantial evidence (see DEIR p. 5.3-29). One glaring defect in the evacuation impact analysis is that the DEIR only considers the number of residential units needing to evacuate (however fails to disclose the maximum number of residents and staff that could be onsite at any given time), and does not discuss the impact associated with the large number of street parked vehicles needing to evacuate at the same time. (*See* DEIR p. 5.3-28). Because these streets have only one traffic lane in each direction, and each are completely lined with parked vehicles that would need to pull out of those parking spaces, on-street parking severely impacts the evacuation capacity of Calle de los Amigos and Torino Drive. Residents of Valle Verde and also neighbors of the Project attempting to turn onto Calle de los Amigos or Torino Drive would face a veritable deadlock caused by the extensive amount of street-parked vehicles vacating the street parking spots all in a short period of time. The traffic impact analysis that precedes the evacuation analysis acknowledges the impact to freeflow travel along these streets caused by on-street parking, stating

> the use of on-street parking along the project site frontages reduces the perceived lane width by providing "friction" against freeflow travel along the street. Several comments presented during the EIR Scoping public hearing for the project held in June 2009 indicated that drivers were slowed by vehicles moving into and out of the on-street parking spaces. Without the on-

> street parking vehicle speeds would increase, which could increase the severity of possible collisions.

(DEIR p. 5.3-25).

The DEIR states that the area may "experience limited periods of congestion as these roadways are not designed to move the population of entire neighborhoods at a single time" (DEIR p. 5.3-29), however does not consider the effects of numerous plausible scenarios such as a broken down vehicle or accident blocking lanes, emergency access vehicles needing to travel towards Valle Verde on the primary evacuation routes, or one of the primary routes being unavailable due to fire conditions in the immediate area such as a fire or explosion originating from the high pressure gas line adjacent to the facility.

Particularly because many residents are in assisted living facilities, experience limited mobility, and are unable to drive or even run or walk out to safety, the level of detail provided in the DEIR with respect to evacuation of the community is woefully inadequate. The DEIR proposes no mitigation whatsoever to address emergency evacuation impacts, relying exclusively on existing protocol at Valle Verde including regularly scheduled fire drills and the bussing of residents of staff to an undisclosed facility. The DEIR neither discloses how many busses are available for evacuation, how many individuals can be transported at one time, or how Valle Verde would conduct an evacuation if a quick-moving fire and/or lane closures precluded busses from returning to gather more residents. The DEIR also fails to provide any estimates of time required to evacuate the facility, even under a "best case" fire scenario. Adding a considerable number of residents without articulating how the existing population could feasibly be evacuated results in a significant unmitigated impact in the area of emergency evacuation. A revised EIR must analyze all plausible fire hazards and evacuation scenarios and provide a detailed and robust evacuation plan that accommodates all existing and proposed residents and staff. Absent these changes there is no substantial evidence supporting a conclusion that the Project's emergency evacuation impacts are insignificant.

e. Land Use Impacts

One class of environmental impacts recognized under CEQA are land use impacts. (*See* CEQA Guidelines Appendix G § IX; *see also City of Santee v. County of San Diego* (1989) 214 Cal. App. 3d 1438). The City's own MEA discuss how land use impacts should be evaluated in City environmental review documents, including a delineation of impacts anticipated as a result of project implementation including change in use type, change in population density, and potential for incompatibility with surrounding uses, etc., and the specification of site specific mitigation measures or alternatives which could serve to lessen potential project impacts. (MEA, p. 49 (Environmental Review Guidelines: Land Use)). Rather than adhere to these guidelines, the DEIR addresses only a subset of land use impacts, namely consistency with plans and policies, and completely omits any analysis or mitigation of the Project's land use compatibility/neighborhood compatibility.

The City's approach to analyzing the potential land use impacts of this project is problematic in several respects. First, it is contrary to the approach contemplated both by the CEQA Guidelines and by the City's CEQA Land Use Guidelines. (*See* CEQA Guidelines Appendix G § IX, MEA, p. 49 (Environmental Review Guidelines: Land Use)). Second and more importantly, by failing to analyze land use impacts in a comprehensive manner, the DEIR results in an understatement of the Project's incompatibility with surrounding land uses. Because the Project involves the expansion of a substantial retirement community permitted only as a "conditional use" in a residential neighborhood, an evaluation of the Project's land use impacts is imperative, and in particular the compatibility of this conditional use with other surrounding land uses (aka neighborhood compatibility). The surrounding residential neighborhood is not merely affected by aesthetics, traffic, or parking, but rather it is the combination of these effects that determines the Project's compatibility with the surrounding neighborhood. The DEIR's piecemeal approach to analyzing the Project's land use impacts also hinders the identification of mitigation measures that comprehensively address the Project's compatibility with the surrounding neighborhood.

i. Pattern and Practice: Failure to Analyze Land Use Impacts

Not only does the DEIR's failure to include a land use impact discussion including analysis and mitigation for neighborhood incompatibility impacts constitute a serious flaw in the DEIR, it is also a serious flaw in the City's environmental review process in general. All or nearly all of the City's environmental documents improperly lack separate consideration of land use impacts, including neighborhood incompatibility and conflicts with policies, zoning ordinances and regulations. At the DEIR hearing for the Elings Park Project, City Staff stated that it is the City's practice to address land use impacts in the context of other impact areas, and not to include a separate land use section in the environmental document. This omission of a fundamental element of an adequate EIR constitutes a pattern and practice of overlooking, ignoring or avoiding the identification and consideration of these issues in all environmental review documents in systematic violation of CEQA.

ii. Neighborhood Incompatibility

The common theme that has been expressed over and over in scoping comments, comments on the DEIR, and a recent zoning complaint, is that Valle Verde already causes severe, sustained, and unreasonable impacts on the quiet enjoyment of adjoining and surrounding residences and thus are incompatible with the surrounding residential uses. The Project proposes additional growth that will further increase and exacerbate these conflicts with residential land uses, without adequate mitigation. The DEIR's failure to accurately characterize the environmental baseline, discussed herein, results in the understatement of Project impacts in the areas of traffic and parking, and consequently neighborhood compatibility as well. When accurately characterized, the Project's incompatibility with the surrounding neighborhood is a significant impact.

The proximity of proposed Project components to residential neighborhoods adds to the severity of the conflict between residential and Valle Verde uses. The failure to recognize the significant land use conflicts associated with locating parking and other facilities adjacent to residences contributed to the DEIR's failure to meaningfully consider Project alternatives that would reduce the Project's land use impacts. Planner Christina McGinnes submitted a letter dated October 11, 2010 that details the various aspects of the Project that result in neighborhood incompatibility.

iii. Inconsistency with Plans and Policies

CEQA recognizes that a Project has potentially significant environmental effects where it conflicts with applicable plans or policies designed at least in part to protect the environment. (*See* CEQA Guidelines App. G § IX (b); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 930). The Project is inconsistent with a number of applicable policies designed to protect the environment, resulting in potentially significant impacts that are not disclosed or mitigated in the DEIR. Letters submitted by Planner Christina McGinnes dated October 11, 2010 and March 12, 2009 detail many of these conflicts including zoning conflicts, and several additional examples are as follows.

Biological Resource Policy 4.0 in the City's General Plan (Conservation Element) provides that "[r]emaining Coastal Perennial Grasslands and Southern Oak Woodlands shall be preserved, where feasible." The Project will result in the removal of Southern Oak Woodland habitat by virtue of new development including residential units and parking lots encroaching into existing habitat areas, and from expanded fuel management areas. The DEIR concludes that the Project is 'potentially consistent' with this policy due to mitigation BIO-1a requiring replacement of oak woodland habitat (DEIR p. 6-8), however BIO-1a is flawed as discussed in section 3, *supra*. More importantly, Policy 4.0 requires 'preservation'. Removal and revegetation does not constitute 'preservation' and the DEIR does not include any evidence even suggesting that preserving these habitat areas is *infeasible*. The two Reduced Biological Resource Impacts alternatives identified in the DEIR appear feasible, and the DEIR offers no evidence to the contrary. Additionally a reduced development alternative could feasibly avoid removal of Southern Oak Woodland habitat. As such, the Project is inconsistent with this Conservation Element Policy, resulting in a significant Land Use impact and adding to the significance of the Project's significant biological impacts. Adoption of a feasible alternative to "preserve" this critical habitat is therefore required. (*See* Pub. Res. Code § 21002.1).

City Charter section 1507 is an important provision requiring that land development not exceed available services and resources. Specifically section 1507 provides:

> It is hereby declared to be the policy of the City that its land development shall not exceed its public services and physical and natural resources. These include, but are not limited to, water, air quality, wastewater treatment capacity, and traffic and transportation capacity. . . In making land use decisions, the City shall be guided by the policies set forth in this section.

Discussed in the Traffic and Parking section, *infra*, the Project exceeds physical resources including evacuation capacity and parking availability. The DEIR is defective for failing to identify a potential inconsistency with this section of the City Charter, and for analyzing and mitigating the significant land use impacts resulting from the inconsistency.

In sum, neighborhood incompatibility, and inconsistency with plans and policies designed to protect the environment, are significant land use impacts of the Project and must be recognized as such. The DEIR's failure to recognize these impacts precludes the DEIR from devising mitigation measures and alternatives that treat these impacts in a comprehensive manner. The Project's significant land use impacts, discussed above, constitute significant new information requiring recirculation of the DEIR. (*See* CEQA Guidelines § 15088.5 (a) (1)).

f. Traffic and Parking Impacts

i. Traffic

Discussed in the Project Description section, *supra,* the DEIR provides insufficient information regarding the number of employees onsite at any given time, number of new employees, and employee shift times, and number of new residents, to support any conclusions regarding the significance of the Project's traffic impacts. Moreover, the trip distribution assumptions (*see* DEIR p. 5.3-13) are questionable and a full disclosure of the methodology used should be provided.

The EIR specifically fails to address the cumulative effects of Project traffic to the City's Las Positas 101 interchange, and other intersections that area operating beyond capacity. Intersections associated with this interchange are beyond design and operational capacity, operating at LOS D & E (AM and PM respectively) for Southbound 101 on ramp. (Exhibit 3). The City admits adding any additional trips would exceed the traffic threshold, and so has adopted an informal convention to consider only projects adding 5 or more PHT to any such intersection to qualify as a significant impact. In the past 12 months, this convention was used in this project, for the BevMo! project, and for Elings Park's expansion plan's traffic analysis - all finding insignificant impacts, and likely many others. CEQA requires that this project's DEIR examine the cumulative impacts of serial projects, and the incremental and cumulative effect of adding more trips on top of other project's "insignificant" additional trips. The Project's cumulative impacts to this intersection, considered in conjunction with the multitude of other projects that have been approved or in consideration by the City, are clearly significant.

ii. Parking

Discussed in the Environmental Baseline section, *supra,* the baseline with respect to on-site parking is under dispute and if proven incorrect would affect the whole parking impact analysis in the DEIR and require revised analysis, and new mitigation measures and/or alternatives. Moreover, as

discussed above in the context of traffic, the DEIR fails to disclose how many new residents and staff will be added with the proposed expansion, and therefore the DEIR cannot meaningfully assess the adequacy of proposed on-site parking.

On-street parking was a dominant concern expressed at public hearings for this Project, however the DEIR fails to provide adequate analysis or mitigation measures to address this significant impact. The DEIR states that "[o]n-street parking is allowed along both Calle de los Amigos and Torino Drive near the project site and along most of the length of both roads." (DEIR p. 5.3-24) However while on-street parking is allowed for members of the public in general, the DEIR fails to clarify whether the prior CUP for Valle Verde allowed residents, Staff, and/or visitors of Valle Verde to use on-street parking. In the event that the prior CUP did not specifically disallow on-street parking, it did provide that adequate on-site parking must be provided. A full discussion of Valle Verde's compliance with its existing CUP must be included in the DEIR to provide the information necessary for the public to assess the adequacy of newly proposed mitigation measures that will be incorporated as conditions in the new CUP.

The currently extensive amount of on-street parking generated by Valle Verde demonstrates there is not currently adequate on-site parking, or even if there are underutilized spaces on-site, residents, visitors and staff of Valle Verde continue to park along Calle de los Amigos and Torino Drive ("parking surveys found that 60 project-related cars were parked along the adjacent streets throughout the day (DEIR p. 5.3-24). The impacts associated with excessive on-street parking include visual impacts, emergency evacuation impacts, and land use incompatibility impacts (discussed in the context of each impact category, *supra*). Additional analysis and mitigation is required to address these impacts flowing from the patent inadequacy of parking facilities on the Valle Verde site, and without this additional analysis the DEIR lacks substantial evidence to support a conclusion that the Project does not have Class I impacts.

1. Proposed Parking Mitigation Measures:

Underground parking facility. Constructing an underground parking facility at a centrally located portion of the Project site could provide sufficient parking spaces at a convenient location to mitigate the existing overflow parking problem experienced on Calle de los Amigos and Torino Drive, while also reducing the need for additional on-site parking lots that encroach into sensitive Oak Woodland areas and abut residential neighborhoods. An underground parking facility would also allow for the preservation of green spaces currently accessible to residents, and may permit the relocation of new residential units to existing parking lots away from the site periphery. Underground parking was employed by the City in the Sandman Inn Project. In this respect an underground parking facility offers the benefits of the Relocate Proposed Units Alternative without the loss of open space in the heart of Valle Verde.

Enforced requirement that employees park on-site. Use of on-street parking by Valle Verde employees is an ongoing problem recognized in the DEIR. A clear prohibition on employee street

parking would help alleviate the significant impacts resulting from excessive on-street parking including aesthetic and emergency evacuation impacts. One potential mechanism for enforcing such a requirement would be requiring all employees to post employee stickers on their vehicles, and for Valle Verde to be required to randomly conduct inspections of parked vehicles along Calle de los Amigos and Torino Drive to determine whether employees are impermissibly utilizing street parking. This condition was imposed by the City upon BevMo! to address on-street employee parking. Together with providing on-site employee parking sufficient for the maximum number of employees on site at one time, this mitigation measure could all but eliminate on-street employee parking impacts.

g. Cumulative Impacts

To be legally adequate the EIR must include a "list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency". (CEQA Guidelines § 15130 (b)(1)(A)). The City has a duty to use reasonable efforts to discover, disclose, and discuss related projects. (*See San Franciscans for Reasonable Growth v. City & County of San Francisco* (1984) 151 Cal. App. 3d 61, 74 (public agency abused its discretion by omitting other closely related projects that could have been easily ascertained)). The cumulative impact analysis in the DEIR is artificially limited to a 1 mile radius that excludes many related projects, without any explanation (*see* DEIR p. 4-11, figure 4.3-1). This limitation truncates the cumulative impact analysis, excluding other projects that together with Valle Verde, could result in cumulative impacts in each impact category. A thorough revision of the cumulative impact discussion is required to account for all projects that when considered in conjunction with Valle Verde could result in significant cumulative impacts.

4. Alternatives

An EIR must describe a range of alternatives to the proposed project, and to its location, that would feasibly attain the project's basic objectives while avoiding or substantially lessening the project's significant impacts. (Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a)). A proper analysis of alternatives is essential for the City to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. (Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126.6(a); *Citizens for Quality Growth v. City of Mount Shasta* (1988), 198 Cal.App.3d 433, 443-45). As stated by the California Superme Court, "[w]ithout meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." (*Laurel Heights Improvement Assn., Inc. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 404 ("*Laurel Heights I*")). The DEIR's discussion of alternatives does not meet these standards.

The DEIR's alternatives analysis is fatally flawed due to the failure to include any assessment and evaluation of the feasibility of alternatives. The City appears to want to obscure this critical element of the environmental review process from the public and provide no information on the feasibility of alternatives, claiming to defer this to the political process. Without explanation of the relevance or significance, the EIR declares: "It is the public agency (Planning Commission), not an EIR, that bears the responsibility for making definitive findings as to whether specific economic, legal, housing, social, technological, or other considerations make infeasible or feasible the 'potentially feasible mitigation measures or alternatives identified in an EIR'" DEIR 9-1. The apparent purpose of this language is to attempt to give decisionmakers broad latitude to impose other, non-environmental factors in the final environmental analysis. A core problem with this approach is that it deprives the public of the opportunity to review and comment on the feasibility of alternatives during the DEIR process when formal agency responses are required. Justifications regarding the infeasibility of alternatives arising for the first time at the approval hearing, will not allow the public to verify the accuracy of those justifications, and provide meaningful comment to decisionmakers. The City is required to make a good-faith attempt at *full disclosure* in the DEIR, and does not do so by concealing information regarding the feasibility of alternatives to the approval stage. (*See* CEQA Guidelines § 15151). This has been another City pattern and practice violating CEQA that divorces the public from the CEQA process.

The DEIR's failure to analyze the reduced development alternative is also a serious flaw in the alternatives analysis, indicating that the DEIR failed to analyze a reasonable range of alternatives. The DEIR's explanation for failing to include this standard Project alternative, that it is not required because all the Project's significant impacts are adequately mitigated, is wholly unsupported by substantial evidence as discussed throughout these comments. Significant unmitigated impacts remain in the areas of aesthetics, biological resources, emergency evacuation, land use, and parking, such that the consideration of a reduced development alternative *is* required.

5. Public Trust Issues

The City has obligations under the public trust doctrine that would be violated by approving the project as proposed. (*See generally Center for Biological Diversity v. FPL Group, Inc.* (2008) 166 Cal. App. 4th 588). Further, those obligations and the Project's impacts to Public Trust resources must be articulated in the DEIR as applicable authority and guiding principles. (*See Pocket Protectors*, 124 Cal.App.4th at 930). Specifically, the City has an obligation to protect state wildlife under the public trust doctrine. The DEIR relies on legally inadequate mitigation measures to address Project's impacts to biological resources, including state trust wildlife. Additionally, the Project proposes development on habitat for State protected wildlife species. (*See* DEIR p. 5.3-22). The City would breach its trust responsibilities were it to approve a project that caused harm to state wildlife and sanctioned the take of rare, sensitive or endangered plant or animal populations. (*Center for Biological Diversity,* 166 Cal. App. 4th 588). Without mitigation that is demonstrated effective in protecting special status species for example, the City cannot ensure that its public trust responsibilities are being fulfilled. Based on the information relied on in these comments, it has not.

The Project's inconsistency with resources protected by the public trust doctrine is an independent potential significant project impact that was not identified and considered in the DEIR. (*Cf Pocket Protectors* 124 Cal.App.4th at 930). These CEQA defects must be cured through recirculation of a revised DEIR that addresses the public trust doctrine as another source of authority controlling the City's consideration of this project.

6. Recirculation of the EIR Is Required

A lead agency is required to recirculate an EIR when significant new information is added to the EIR after the draft EIR has been made available to the public but before certification. (CEQA Guidelines § 15088.5 (a)). Some examples of significant new information requiring recirculation listed in this section of the Guidelines, include a disclosure that

1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented

2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project proponents decline to adopt it.

4) The draft EIR was so fundamentally and basically inadequate and conclusory meaningful public review and comment were precluded.

The draft EIR for the Valle Verde Project will require recirculation for numerous reasons, and each example provided in the Guidelines of disclosures that would require recirculation apply here. Significant new impacts that were omitted from the DEIR include significant aesthetic impacts concealed with the use of constrained significance thresholds and land use impacts associated both with neighborhood incompatibility and inconsistency with applicable plans and policies. Additional baseline studies in areas including parking and biological resources will involve disclosures that will significantly increase the severity of the Project's significant environmental impacts. Constructing an underground parking facility is a significantly different mitigation measure that would clearly lessen the Project's significant environmental impacts, has been raised in public comment at both the scoping and draft EIR phases, and yet has not been incorporated into the EIR. Finally, the overall draft is so fundamentally and basically inadequate and conclusory that meaningful public review and comment were precluded. Each of these triggers for recirculation, and others, are discussed in more detail in the following sections.

7. Conclusion

For the reasons stated herein, the DEIR is inadequate and requires substantial revision and recirculation for public review.

Sincerely,

LAW OFFICE OF MARC CHYTILO

Ana Citrin
Attorneys for Hidden Oaks Homeowners Association

Exhibits:

Exhibit 1: K. Dodd and R. Seigel, Relocation, Repatriation, and Relocation of Amphibians and Reptiles: Are They Conservation Strategies that Work? Herpetologica, 47 (3) 1991, 336-350
Exhibit 2: City of Santa Barbara Fire Department Wildfire Plan, January 2004, Figures 4 and 5
Exhibit 3: Transportation Existing Conditions Report, Plan Santa Barbara (August 2008)

CC: Julie Rodriguez, Planning Commission Secretary

EXHIBIT 1

Herpetologica, 47(3), 1991, 350–357

RELOCATIONS, REPATRIATIONS, AND TRANSLOCATIONS OF AMPHIBIANS AND REPTILES: TAKING A BROADER VIEW

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THE review of "relocation, repatriation and translocation" (RRT's) of amphibians and reptiles by Dodd and Seigel (1991) provides a summary of the literature on the use of these techniques for conservation purposes. Their recommendations are generally sound, and apply not only to these conservation practices, but equally well to any of the myriad possible techniques used to help insure the preservation of a species. However, I believe that the evidence they use for support is weak, that their dissatisfaction with past efforts is only partially justified, and thus their conclusions extreme. Basically, the question that they attempt to answer is: given that conservation dollars are always limited, are RRT's cost effective and appropriate procedures for amphibian and reptile conservation programs? They find that these techniques have been successful in only a few cases, and thus they propose a rigid set of criteria to be addressed before any future attempts are begun. My comments on their work focus on two main points: whether amphibians and reptiles are generally poor candidates for RRT's, and how success should be determined.

REPTILES AND AMPHIBIANS AS RRT CANDIDATES

As Griffith et al. (1989) did for a much larger number of studies of birds and mammals, Dodd and Seigel reviewed RRT programs for 25 species of amphibians and reptiles and found that of the 11 projects that could be defined as successful or unsuccessful by their standards, five (45%) were successful. This is slightly higher than the success rate reported for 198 RRT's reviewed by Griffith et al. Even so, the use of this type of analysis is exceedingly crude, because it assumes that snakes, lizards, turtles, crocodilians, salamanders, and anurans have comparable potential for successful RRT. Certainly there is wide variation within each order as well as between them, and anyone considering an

RRT for a particular species should be mainly interested in experiences from similar species. For example, Griffith et al. (1989) found that RRT success varied dramatically between taxa in different trophic levels, and also that life-cycle stage when relocated was important. Dodd and Seigel also treat as similar those RRT programs that differ greatly in operating budgets, number of animals released, and origin of released animals (wild-caught or captive raised). Griffith et al. (1989) found all of these factors relevant to the success rate of RRT's for birds and mammals.

Because Dodd and Seigel did not control for important variables, their 25-study analysis is clearly a case of comparing apples to oranges. However, doing the comparison properly would be difficult, because the sample size is so small. Some additional studies to add to the list for anyone interested in attempting such an analysis are listed in Comly et al. (1991) [especially the 13 described by Cook (1989), but see also Humphrey et al. (1985), Stout et al. (1989*a*), Tom (1988), and additional references below].

Dodd and Seigel were unable to find any examples of successful RRT's for any species of snakes, turtles, anurans, or salamanders, despite the fact that the literature is replete with them [see Wilson and Porras (1983) for one recent relevant review]. Some of the examples that I cite below are "translocations" under the definition given by Dodd and Seigel, but because they involve species not recently native to the release area, they may also be called "invasions". I anticipate the objection that the deliberate or accidental release of a species that is later considered an invader is somehow different from the release of a species for conservation purposes. However, the distinction is important only in terms of human intentions and values (Price, 1989), and the theoretical and empirical studies on biological invasions are directly relevant to RRT's (Griffith et al., 1989; Konstant and Mittermeier, 1982; Pimm et al., 1988; Roughgarden, 1986*a*). Both involve the establishment of a species through the release of a small number of individuals into an area inhabited by few or no conspecifics. Attempts to identify the general life history and genetic characteristics of species that are either successful colonizers or extinction-prone have found little empirical support; for each generalization there are numerous exceptions (Burke and Humphrey, 1987; Ehrlich, 1986; Newsome and Noble, 1986). For example, elephants exhibit most of the traits commonly attributed to poor invaders and extinction-prone species, yet are pests in some areas. The main trait clearly shown to be useful in identifying extinction-prone species is initial rarity (Pimm et al., 1988; see references in Burke and Humphrey, 1987), which similarly characterizes both deliberate and accidental RRT's. Furthermore, conservationists may learn from a study of relevant invasions, because most invasions involve few individuals, released with a minimum of care in a strange environment, and as such are excellent examples of what can be done on a tight budget.

For snakes, the now 10 yr-old repatriation of *Nerodia sipedon* into a national park in New York (Cook, 1989) and *Boiga irregularis* in Guam (Savidge, 1987) are two examples of highly successful RRT's. The current discontinuous range of *Elaphe longissima longissima* is a result of multiple RRT's by the Romans some 2000 yr ago for rodent control in their temples (Mehrtens, 1987). For turtles, in California alone *Chelydra serpentina, Apalone spinifera,* and *Trachemys scripta* have populations clearly established by RRT's (Mooney et al., 1986). Similarly, *Trachemys scripta* has been firmly established through relocations to a variety of sites throughout the eastern United States (Conant, 1975). The tortoise *Geochelone pardalis* has been translocated into two nature reserves in South Africa, the first pre-1930 and the second pre-1966, and both populations are "flourishing" (Brooke et al., 1986). *Geochelone elephantopus hoodensis* has apparently been successfully repatriated now 15 yr after the initial release (Anonymous, 1986). For anurans *Rana catesbeiana* in the American southwest (Schwalbe and Rosen, 1988), *Xenopus laevis* in California (Mooney et al., 1986),

Dendrobates auratus in Hawaii (McKeown, 1978), the repatriation of *Bufo calamita* into a British reserve (Raw and Pilkington, 1988), and the remarkable success of *Bufo marinus* (e.g., Easteal and Floyd, 1986) in numerous countries and habitats throughout the world are but a few of the many examples of successful RRT's. Examples of salamanders include *Ambystoma tigrinum* in the American southwest (Collins, 1981), *Necturus maculosus* in New England and apparently *Desmognathus quadramaculatus* into parts of Georgia (Conant, 1975). Finally, to add to Dodd and Seigel's list of successful lizard and crocodilian RRT's: *Chameleo jacksonii* and *Iguana iguana* in Hawaii (McKeown, 1978), *Anolis* sp. in numerous Caribbean Islands (Roughgarden, 1986*b*) and Florida (Wilson and Porras, 1983), *Anolis grahami* released in Bermuda to control mosquitos (Simmonds et al., 1976), *Hemidactylus turcicus* and *H. frenatus* into many tropical, sub-tropical, and even some temperate habitats all over the world, and *Caiman crocodilus* in Florida (Ellis, 1980) are just a few of the possible examples.

Finally on this topic, I agree with Griffith et al. (1989) that researchers and conservationists interested in understanding why some species under some conditions may be promising candidates for RRT, and others not, should investigate the literature on biological invasions, which has had several recent and thorough reviews (e.g., Castri et al., 1990; Drake et al., 1989; MacDonald et al., 1986; Mooney and Drake, 1986; Wilson and Porras, 1983). This body of literature reviews the data on successful and unsuccessful invasions by a number of species from a variety of taxa, and has a body of theory relevant to conservation issues (i.e., Ritcher-Dyn and Goel, 1972).

What Should We Call "Success"?

A second major thrust of Dodd and Seigel's essay is that some workers, particularly Burke (1989), have been premature in calling their efforts a "success". For their analysis of 25 RRT's reported in the literature, they defined a project as a success only if "evidence is presented that a self-sustaining population has been established", and that "the population is at least stable". It is not clear how they applied these criteria in the cases that they reviewed. For example, at what point can one call a population "self-sustaining", and how does one determine stability? They suggest that mere successful reproduction is insufficient. However, no population, "natural" or otherwise, can be defined as indefinitely, invariably stable, and the longer a population is monitored, the less stable it appears to be (Pimm and Redfern, 1988). Later, they suggest that a monitoring program of 10–15 yr for anurans and >20 yr for tortoises would be appropriate for determination of success. Again, it is not clear if they applied these criteria to the studies that they reviewed. Obviously, few RRT studies of this duration have been completed.

I welcome Dodd and Seigel's definitions of success for RRT's, and I encourage other interested workers to air their views on how to define success (e.g., Phillips, 1990). For example, rather than simply declaring a particular RRT a success, I stated that "the usefulness of relocation for tortoise conservation is unclear" (Burke, 1989: p. 295) and, later, that I had shown that "it is possible to relocate and reintroduce gopher tortoises *fairly* successfully" (Burke, 1989: p. 295, italics added here). These results were further presented in quantitative terms. Generally, I called the project "fairly successful" because the same 31 individual tortoises stayed at the release site (from which tortoises were extirpated before it became a county park) for 2 yr after release, they reproduced both years, and their offspring survived and grew. In addition, the release site was public land with a legal commitment to manage for maintenance of natural habitat in perpetuity, predator-control programs were in place, and the tortoise population exceeded the size that population simulation models suggested to be the minimum necessary for survival for at least 200 yr with a >90% probability under these conditions (Cox et al., 1987). This tortoise population

continues to thrive, now 5 yr after release. I plan to write the 20 yr evaluation in due time.

Other than deliberate attempts to mislead readers, authors are not responsible for misinterpretations of their work, and I am unaware of any evidence that my results have encouraged the use of RRT's for gopher tortoise or any other amphibian or reptile. On the contrary, the appropriate regulatory agency, the Florida Game and Fresh Water Fish Commission, recently proposed making Florida tortoise RRT's obsolete with the consideration of an incidental take law which would allow the destruction of tortoises and habitat in exchange for fees. Few developers will go to the expense of a tortoise RRT unless legally required to do so.

Errors

Dodd and Seigel's essay has four additional problems that bear correction; the first three are relatively minor, but the fourth is more serious. First, Dodd and Seigel recommend that populations released as RRT's should mimic the demographic characteristics of "natural" populations. This is a point of some contention, and other views have been presented by Berry (1986) and Landers (1981). Based on the limited data available, these authors suggested that RRT's may be more successful if various manipulations, such as releasing female tortoises first or releasing fewer adult males, are used. My work (1989) addressed this in part, but this issue is not resolved and is likely to have different solutions for different species and release program combinations.

Next, they misquoted Burke (1989) as "claiming relocation had no effect on existing social structure of resident tortoises . . . despite data to the contrary on related species (Berry, 1986)." Both points are incorrect. There were no tortoises resident on the release site before that project, and I have never released tortoises into an area where there were resident tortoises. Apparently they misunderstood my research and results on the impact of social structure of the *released* population. Also, Berry (1986) did not present data on this specific point, but instead she postulated, from existing data on social behavior and movements, *possible* impacts on RRT success.

Later, they criticize the studies of Burke (1989), Fucigna and Nickerson (1989), Godley (1989) and Stout et al. (1989*b*) as being of too short a duration to justify claims of "long-term relocation success". I agree, but also point out that none of these studies claimed long-term success.

The fourth issue is that of population genetics and minimum viable population (MVP) analysis for RRT's. Dodd and Seigel focus on one small aspect of MVP analysis, that of population genetics, and point out that it has rarely been discussed in the RRT literature for amphibians or reptiles (but see Burke, 1989). I suggest that over the time frame relevant to most of these types of conservation efforts, population genetics is instead more important to another concern not addressed by Dodd and Seigel: the risk of mixing distinct gene pools through careless RRT's, as pointed out and documented by Greig (1979) and Templeton et al. (1986). Not only could such mixing threaten the survival of locally adapted populations, but current and future evolutionary studies on the species could be rendered impossible or misleading by careless RRT's. This reason alone is sufficient to recommend strongly that genetic studies be undertaken prior to RRT's (see, for example, Lamb et al., 1989), and that RRT's be carefully documented in the literature. It is also important to recognize that if a population is on lands scheduled for extensive alteration, any individuals that are not moved, but are killed instead, may represent genetic material lost forever.

Simberloff (1988), Shaffer (1987), and Lande (1988*a*) pointed out that MVP analysis (and its modern descendant, population viability analysis: Gilpin and Soulé, 1986) is based on more than population genetics, as genetic concerns are only likely to be important to a small population of a normally outbreeding species going through an extended, multi-generational bottleneck. They predict that under the

100–200 yr time frame considered by most conservation efforts, demographic and environmental effects will be more important, and thus most MVP and PV analyses do not take genetics into account (e.g., Burke et al., 1991; Cox, 1989; Cox et al., 1987; Grier, 1980; Lande, 1988*b*; Shaffer, 1983); thus the use of any sort of 50/500 rule is superseded. Population simulation for realistic and useful MVP analysis or PVA requires advanced computer programming skills and detailed knowledge of both the species' biology and the important environmental factors that impact populations. Current development of new PVA's, involving analysis of metapopulations subdivided into many subpopulations, promises to be particularly applicable to small, RRT-established populations. While a MVP analysis or PVA can be a useful component of a species recovery plan, it is not a trivial endeavor (Burke et al., 1991). Few have been completed for amphibians or reptiles (but see Cox, 1989; Cox et al., 1987; Soulé, 1989).

Recommendations

Dodd and Seigel's recommendations for future RRT's are generally sound, and I shall only comment on a few of them. Readers interested in reviewing these points in greater detail should see Price (1989). I agree that for no species of amphibian or reptile do we have a thorough knowledge of conditions that maximize chances for a successful RRT. I also agree that each RRT should have an experimental design allowing appropriate statistical tests of manipulations hypothesized to increase success. For species likely to be subject to many RRT's, a coordinated research program should be established to allow standardization of basic technique with replication and testing of suggested improvements. For example, the Florida Game and Fresh Water Fish Commission has permitted over 75 relocations (Dodd and Seigel, 1991), but it required only that applicants adhere to a general protocol, and did not recommend investigation of potential improvements. Funding for such programs should be available from the development forces that make them necessary.

Dodd and Seigel appropriately call for longer monitoring of RRT's, to insure that initial indications of success are borne out. They point out that this involves a substantial commitment of resources that in many cases may not be feasible. For example, when the proposal for tortoise relocation described in Burke (1989) was reviewed, the funding agency refused to fund more than 2 yr of follow-up, because current legal restrictions did not require more. This does not lessen the importance of long-term monitoring, only its likelihood. However, I would not draw the conclusion that further turtle RRT's should not be considered until 20 yr has passed to allow judgement on the success of those already done, for two reasons. First, extinctions of RRT populations must be considered against the baseline extinction rates of similarly sized unaltered populations. Thus, if 10% of the RRT's of a particular species fail, this may not be because of the RRT itself, but may be a rate characteristic of subpopulations of the species in general (Diamond, 1984; Karr, 1990). Secondly, conservation biology is correctly described as a "crisis science" (Soulé, 1985), and as such may not always be subject to the same statistical standards as most other scientific fields. In some cases, it may be necessary to accept higher than normal risk of Type 1 errors and to make decisions based on preliminary trends in data that may not reach the $P = 0.05$ level of significance, but are strongly suggestive of the value of a technique.

Dodd and Seigel also review criteria for choosing release sites, and thus generalize the example and discussion presented in Burke (1989). For example, there may be numerous appropriate sites for gopher tortoise re-introductions in Florida, areas from which tortoises have been extirpated, but are now relatively safe, and have low probability of natural recolonization (Burke, 1989). In a perfect world, potential RRT organizers would have sufficient time to study the biology of the species concerned, investigate a variety of potential release

sites, and choose the best candidates. Inability to do this should be fit into the cost/benefit analysis for the RRT project; for example, if no good release sites are available, obviously an RRT is inappropriate.

Conclusion

Discussions of RRT's are important and useful, because RRT's may form an expensive part of the conservation program for a vulnerable species. For example, discussion between relevant agencies is underway on plans for a reintroduction of the endangered tortoise *Gopherus flavomarginatus* from Mexico into Big Bend National Park Texas (Morafka, personal communication), and for the captive-bred offspring of the world's rarest tortoise (*Geochelone yniphora*) to be used for both an introduction into entirely new habitat and to bolster extant populations (Burke, 1990). Several re-introductions are also being planned for *Sphenodon guntheri* (Daugherty, personal communication). The principal question remains as to whether RRT's are a cost effective method of improving a species' chances of survival. I suggest that generalization based on comparisons of results from a broad mixture of species and RRT techniques is not an appropriate way to resolve this question. Instead, relevant literature for the species under consideration should be reviewed, and the potential for success of an RRT should be considered in a cost/benefit or risk analysis (Price, 1989; Soulé, 1989). No one claims that RRT's are a panacea, but they should be considered an option in any recovery program.

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EXHIBIT 2

Figure 4

HAZARD ASSESSMENT MAP

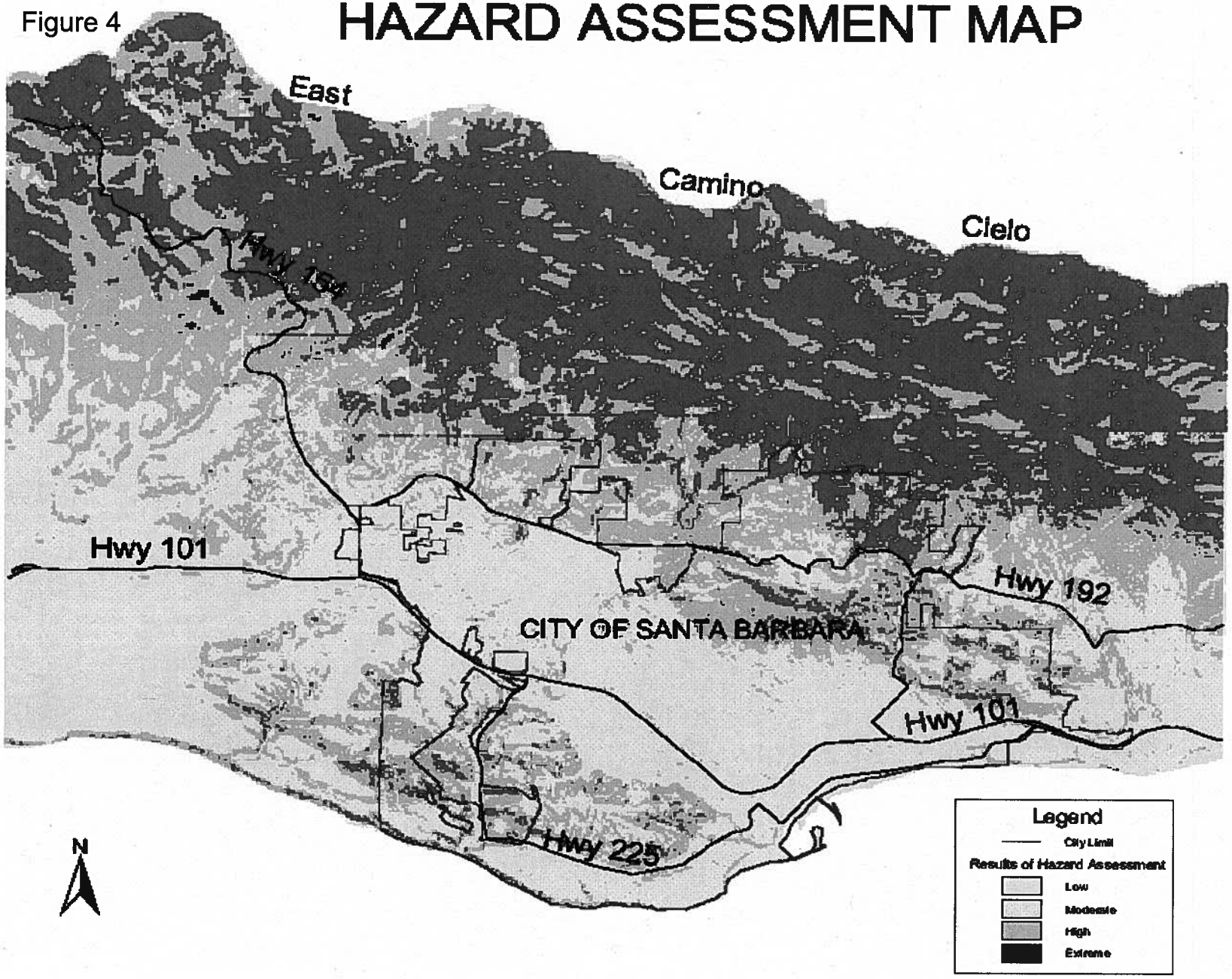

Figure 5

HIGH FIRE HAZARD AND NON-HIGH FIRE HAZARD AREA

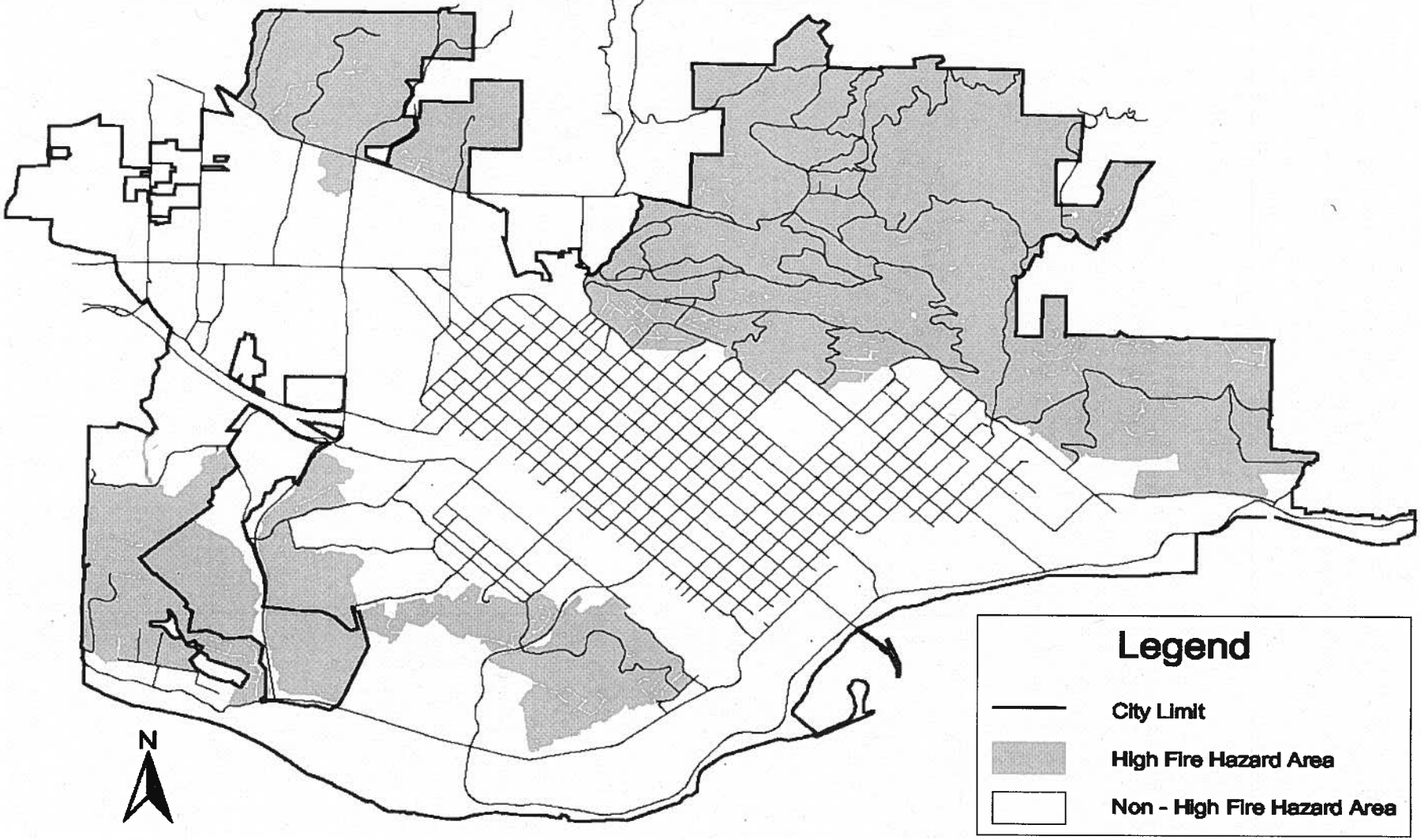

EXHIBIT 3

Figure 3-4: Year 2008 Weekday Existing Conditions, Plan Santa Barbara Study Intersection Levels of Service

Intersection	Peak Hour	Existing Conditions: Delay or V/C	LOS
1 Olive Mill Road & Coast Village Road [b]	AM	13	B
	PM	18	C
2 Hot Springs Road & Coast Village Road [b]	AM	20	C
	PM	25	C
3 Cabrillo Boulevard & U.S. Highway 101 SB Ramp [b]	AM	20	C
	PM	15	B
4 Milpas Street & U.S. Highway 101 SB On Ramp [a]	AM	0.367	A
	PM	0.526	A
5 Milpas Street & U.S. Highway 101 SB Off Ramp [a]	AM	0.683	B
	PM	0.771	C
6 Milpas Street Roundabout [c]	AM	15	B
	PM	14	B
7 Milpas Street & Quinientos Street [a]	AM	0.592	A
	PM	0.715	C
8 Milpas Street & Gutierrez Street [a]	AM	0.520	A
	PM	0.582	A
9 Milpas Street & Haley Street [a]	AM	0.479	A
	PM	0.641	B
10 Cabrillo Boulevard & Garden Street [a]	AM	0.298	A
	PM	0.370	A
11 Yanonali Street & Garden Street [a]	AM	0.431	A
	PM	0.491	A
12 U.S. Highway 101 SB Ramps & Garden Street [a]	AM	0.640	B
	PM	0.929	E
13 U.S. Highway 101 NB Ramps & Garden Street [a]	AM	0.575	A
	PM	0.748	C
14 Gutierrez Street & Garden Street [a]	AM	0.675	B
	PM	0.808	D
15 Cabrillo Boulevard & State Street [a]	AM	0.303	A
	PM	0.420	A
16 Gutierrez Street & State Street [a]	AM	0.288	A
	PM	0.383	A
17 Cabrillo Boulevard & Castillo Street [a]	AM	0.357	A
	PM	0.598	A
18 Montecito Street & Castillo Street [a]	AM	0.691	B
	PM	0.763	C
19 Haley Street & Castillo Street [a]	AM	0.552	A
	PM	0.784	C
20 Haley Street & Bath Street [a]	AM	0.538	A
	PM	0.697	B
21 Carrillo Street & Anacapa Street [a]	AM	0.474	A
	PM	0.618	B
22 Carrillo Street & Chapala Street [a]	AM	0.445	A
	PM	0.635	B
23 Carrillo Street & De la Vina Street [a]	AM	0.551	A
	PM	0.636	B
24 Carrillo Street & Bath Street [a]	AM	0.551	A
	PM	0.540	A
25 Carrillo Street & Castillo Street [a]	AM	0.664	B
	PM	0.666	B
26 Carrillo Street & U.S. Highway 101 NB Ramp [a]	AM	0.773	C
	PM	0.842	D
27 Carrillo Street & U.S. Highway 101 SB Ramp [a]	AM	1.023	F
	PM	0.962	E
28 Carrillo Street & San Andres Street [a]	AM	0.682	B
	PM	0.755	C
29 Micheltorena Street & San Andres Street [a]	AM	0.608	B
	PM	0.613	B
30 Mission Street & Modoc Road [b]	AM	27	D
	PM	29	D
31 Mission Street & U.S. Highway 101 SB Ramps [a]	AM	0.938	E
	PM	0.969	E
32 Mission Street & U.S. Highway 101 NB Ramps [a]	AM	0.858	D
	PM	0.812	D
33 Mission Street & Castillo Street [a]	AM	0.512	A
	PM	0.554	A
34 Mission Street & Bath Street [a]	AM	0.556	A
	PM	0.606	B
35 Mission Street & De la Vina Street [a]	AM	0.524	A
	PM	0.558	A
36 Mission Street & State Street [a]	AM	0.719	C
	PM	0.697	B
37 Meigs Road & Cliff Drive [a]	AM	0.621	B
	PM	0.688	B
38 Las Positas Road & Cliff Drive [b]	AM	30	D
	PM	23	C
39 Las Positas Road & Modoc Road [a]	AM	0.671	B
	PM	0.730	C
40 Las Positas Road & U.S. Highway 101 SB Ramps [a]	AM	0.812	D
	PM	0.947	E
41 U.S. Highway 101 NB Ramp & Calle Real [a]	AM	0.798	C
	PM	0.683	B
42 Alamar Avenue & State Street [a]	AM	0.495	A
	PM	0.563	A
43 De la Vina Street & State Street [a]	AM	0.465	A
	PM	0.535	A
44 Las Positas Road & State Street [a]	AM	0.637	B
	PM	0.772	C
45 Hitchcock Way & State Street [a]	AM	0.477	A
	PM	0.671	B
46 Hope Avenue & State Street [a]	AM	0.511	A
	PM	0.661	B
47 La Cumbre Road & State Street [a]	AM	0.600	A
	PM	0.853	D
48 Hope Avenue & U.S. Highway 101 NB Ramp/Calle Real [a]	AM	0.589	A
	PM	0.765	C
49 La Cumbre Road & U.S. Highway 101 SB Ramps [a]	AM	0.605	B
	PM	0.668	B
50 La Cumbre Road & Calle Real [a]	AM	0.539	A
	PM	0.663	B
51 SR 154 & Calle Real [a]	AM	0.531	A
	PM	0.730	C
52 SR 154 & U.S. Highway 101 SB On Ramp [a]	AM	0.417	A
	PM	0.400	A

[a] Intersection is controlled by signal and uses ICU methodology
[b] Intersection is controlled by stop signs and uses HCM unsignalized methodology
[c] Intersection is controlled by roundabout and uses HCM roundabout methodology